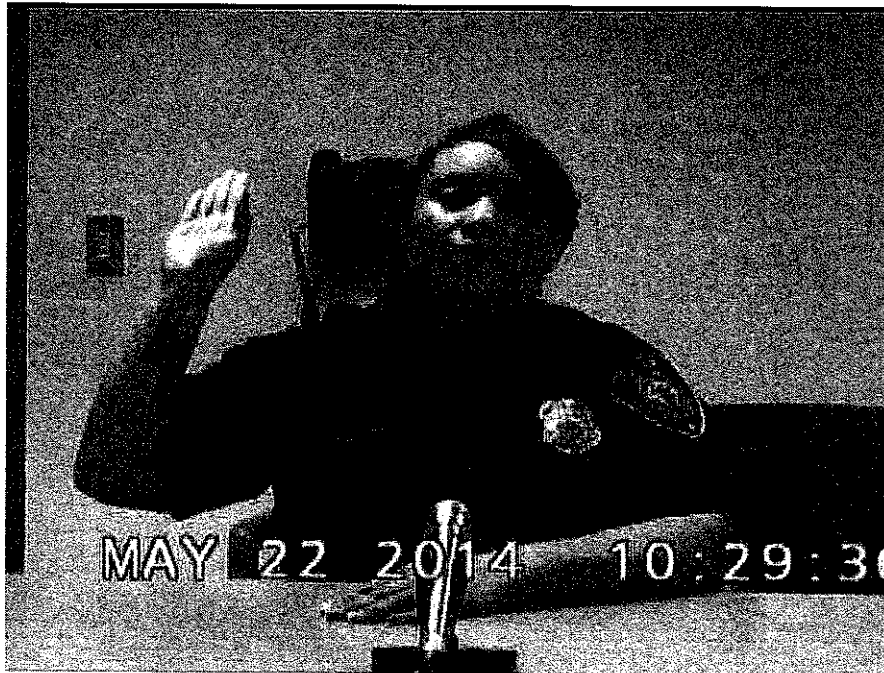


United States District Court
Eastern District of Wisconsin

Estate of Perry v. Wenzel
12-CV-664



Video Deposition of

Crystal Jacks

Recorded 05/22/2014 in Milwaukee, WI

10:29 am - 1:21 pm, 158 mins. elapsed

Magne-Script

(414) 352-5450



20474 Condensed transcript with index

Video Deposition of Crystal Jacks 5/22/2014

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<p>Page 1</p> <p>Witness Crystal Jacks</p> <p>Thursday 05/22/2014 at 10:00 by: Jeff Joseph</p> <p>Milwaukee City Attorneys Office 841 N. Broadway #716 Milwaukee, WI 53202</p> <p>Estate of Perry v. Wenzel 12-CV-664 United States District Court Eastern District of Wisconsin</p>	<p>Page 3</p> <p>1 INDEX</p> <p>2 EXAMINATION BY PAGE NO.</p> <p>3 Mr. Gende 3</p> <p>4 Ms. Lappen. 107</p> <p>5 EXHIBIT NO. PAGE NO.</p> <p>6 75 - Notice of Deposition 6</p> <p>7 76 - SOP 090 policy and procedure 72</p> <p>8 77 - Jacks statement to investigators 98</p> <p>9 (The sealed original transcript was sent to Mr. Gende)</p> <p>10</p> <p>11 EXAMINATION</p> <p>12 BY MR. GENDE:</p> <p>13 Q Ma'am, please state your name and spell your last name</p> <p>14 for the record?</p> <p>15 A Crystal Jacks. Last name J-a-c-k-s.</p> <p>16 Q Officer Jacks, I'm going to ask you a series of</p> <p>17 questions regarding your knowledge of the events</p> <p>18 surrounding Mr. Perry's death. If you don't</p> <p>19 understand my question, please tell me so and I'll</p> <p>20 attempt to rephrase it in a manner that's more clear.</p> <p>21 Okay?</p> <p>22 A Okay.</p> <p>23 Q If you answer my question, I will assume that you</p> <p>24 understood it. Is that fair?</p> <p>25 A Fair enough.</p>
<p>Page 2</p> <p>1 APPEARANCES</p> <p>2 James J. Gende</p> <p>3 Gende Law Office, S.C.</p> <p>4 N28 W23000 Roundy Dr.</p> <p>5 Pewaukee, WI 53072</p> <p>6 On behalf of the Plaintiffs</p> <p>7</p> <p>8 Andrew A. Jones</p> <p>9 Whyte Hirschboeck Dudek S.C.</p> <p>10 555 E. Wells St. #1900</p> <p>11 Milwaukee, WI 53202</p> <p>12 On behalf of the Milwaukee County Defendants</p> <p>13</p> <p>14 Susan E. Lappen</p> <p>15 Milwaukee City Attorneys Office</p> <p>16 841 N. Broadway #716</p> <p>17 Milwaukee, WI 53202</p> <p>18 On behalf of the City of Milwaukee Defendants</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 4</p> <p>1 Q All your answers must be in a verbal manner because</p> <p>2 the court reporter cannot take down nods of the head</p> <p>3 and shrugs of the shoulders. Okay?</p> <p>4 A Okay.</p> <p>5 Q Please allow me to ask my entire question before you</p> <p>6 attempt to answer, and I'll afford you the same</p> <p>7 courtesy so we may keep the record clear. Okay?</p> <p>8 A Okay. All right.</p> <p>9 Q Ma'am, what is your current employment?</p> <p>10 A I'm employed with the City of Milwaukee Police</p> <p>11 Department as a police officer.</p> <p>12 Q For how long?</p> <p>13 A Thirteen years.</p> <p>14 Q And can you give me a brief overview of your</p> <p>15 employment history before you became a police officer?</p> <p>16 A Before I became a police officer, I worked in a</p> <p>17 nursing home. Before that, I worked at K-Mart, and</p> <p>18 before that, I worked at McDonald's.</p> <p>19 Q What was your job when you worked at the nursing home?</p> <p>20 A Taking care of elderly patients.</p> <p>21 Q Did you have some medical training in order to be</p> <p>22 qualified for that job?</p> <p>23 A Yes. Well, they gave me the training.</p> <p>24 Q All right. What type of training did you receive for</p> <p>25 taking care of elderly patients?</p>

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<p style="text-align: center;">Page 5</p> <p>1 A Basically, getting them dressed, bathing them, helping 2 them feed them, helping them to use the bathroom. 3 Q Did you receive any type of certification, like a -- 4 not a registered nurse, but a nursing assistant or 5 something along those lines? 6 A Closer to a nursing assistant. 7 Q And how about a overview of your educational 8 background, please? 9 A How far back do you want me to go, or.... 10 Q Let's start after high school. 11 A Okay. After high school, I didn't go to college right 12 away until after I was on the department, my 13 department, the Milwaukee Police Department, and I 14 went to Marian College. 15 Q When did you attend Marian? 16 A I do not know the exact dates. 17 Q Did you receive a degree? 18 A I received 60 college credits, which would be 19 equivalent to an associate's. 20 Q When was the last time you were going to Marian? 21 A I would say at least seven years ago. 22 Q Did you review any documents in preparation for your 23 deposition this morning? 24 A Yes, I did. 25 Q What documents did you review?</p>	<p style="text-align: center;">Page 7</p> <p>1 Q Okay. Was he your partner at the time you had this 2 conversation about his deposition? 3 A For that particular day, we were partners, but he's 4 not somebody who I would work with every day. 5 Q Not regularly assigned with him? 6 A Correct. 7 Q And who brought out the conversation about his 8 deposition at that time? 9 A Officer Kroes. 10 Q Okay. And tell me what you talked about. 11 A Just basically he told me what types of questions that 12 you had asked him. 13 Q What do you recall about the questions he relayed to 14 you? 15 A Basically, as the condition of which Mr. Perry was 16 from the hospital, back to our Prisoner Processing 17 Section. 18 Q How long did you talk to Officer Kroes about those 19 questions that he was asked at his deposition? 20 A Two or three minutes. 21 Q Did you talk to any of the other officers that have 22 been deposed about their depositions? 23 A Yes, I did. 24 Q Who else did you speak with? 25 A Stephon Bell.</p>
<p style="text-align: center;">Page 6</p> <p>1 A The initial paperwork that you gave me about being... 2 Q Appearing? 3 A ...sued. And the police reports from the day of this 4 incident. 5 (Exhibit 75 identified) 6 Q I'm going to show you what we've marked as Exhibit No. 7 75, which was your notice to appear at a prior date, 8 entered and continued to this date. As part of that 9 notice, we asked that you bring with you any documents 10 you reviewed in preparation for your deposition here 11 today. Do you have those documents with you? 12 A No, I do not. 13 Q Do you know where they're at? 14 A Probably in my work locker. 15 Q Did you review any deposition testimony before 16 appearing? 17 A No. 18 Q Did you speak to any of the other defendants who I've 19 deposed in this case about their depositions? 20 A Yes. My partner, Officer Kroes. 21 Q Okay. And when did you speak to Officer Kroes about 22 his deposition? 23 A It was the day after he did his deposition with you. 24 Q Is he still your partner? 25 A No.</p>	<p style="text-align: center;">Page 8</p> <p>1 Q And when did you have that conversation with Officer 2 Bell? 3 A Probably around the exact date as when he did his 4 deposition. I believe how that came up is that his 5 first appointment to do this had been cancelled. 6 Q Were you assigned with Officer Bell at that time as 7 well? 8 A No. 9 Q Okay. 10 A No. 11 Q So where did this conversation take place? 12 A On a cell phone. On my cell phone. 13 Q Did you call him or did he call you? 14 A I do not know. 15 Q Was the purpose of the cell phone call to discuss the 16 deposition or some other reason? 17 A No. Just to -- we asked how -- I asked him how the 18 deposition went, and he had told me that it had been 19 rescheduled. 20 Q Did you then talk to Officer Bell about his deposition 21 after he took it? 22 A No. 23 Q Other than meeting with your attorney, have you had 24 any discussions in preparation for your deposition 25 with anybody else?</p>

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<p style="text-align: center;">Page 9</p> <p>1 A No.</p> <p>2 Q And what police reports do you recall reviewing in</p> <p>3 preparation for your deposition?</p> <p>4 A The statement that I had given to the detectives on</p> <p>5 the actual night of when this occurred.</p> <p>6 Q And when did you review that report?</p> <p>7 A I do not know the exact date, but I did have a meeting</p> <p>8 with Sue Lappen, and I would say that was at least two</p> <p>9 or three months ago.</p> <p>10 Q When you met with Ms. Lappen, did you review any</p> <p>11 documents other than the statement you gave to</p> <p>12 detectives?</p> <p>13 A No.</p> <p>14 Q And I think you mentioned the complaint that named you</p> <p>15 as a defendant, right?</p> <p>16 A Correct.</p> <p>17 Q How long did you meet with Ms. Lappen for?</p> <p>18 A An hour.</p> <p>19 Q Were any other people present?</p> <p>20 A Officer Kroes.</p> <p>21 Q Have you subsequently met with Ms. Lappen to prepare</p> <p>22 for your deposition here today?</p> <p>23 A I've only had one meeting with Sue Lappen...</p> <p>24 Q Okay.</p> <p>25 A ...regarding this deposition.</p>	<p style="text-align: center;">Page 11</p> <p>1 Q Okay. Where did you first see Mr. Perry?</p> <p>2 A I first saw Mr. Perry when he was in the back of Bell</p> <p>3 Ambulance.</p> <p>4 Q Do you know who had put Mr. Perry in the back of the</p> <p>5 ambulance?</p> <p>6 A Who actually loaded him?</p> <p>7 Q Yes.</p> <p>8 A I do not.</p> <p>9 Q When you first saw Mr. Perry, tell me what you recall</p> <p>10 seeing.</p> <p>11 A It was just a quick glance, but he was on a cot, and</p> <p>12 that's really about -- I mean, I really couldn't -- it</p> <p>13 was just a quick glance of what I saw.</p> <p>14 Q Was he sitting up, laying down?</p> <p>15 A The cot was in a -- sitting up.</p> <p>16 Q And did he appear conscious or unconscious?</p> <p>17 A Conscious.</p> <p>18 Q Did he have any type of breathing apparatus on him?</p> <p>19 A No.</p> <p>20 Q Were you able to converse with him at that time?</p> <p>21 A No, because Officer Kroes, we had made the decision</p> <p>22 that he would ride with him to the hospital and I</p> <p>23 would follow behind in my squad car.</p> <p>24 Q Did it appear that Mr. Perry was being resistant or</p> <p>25 combative...</p>
<p style="text-align: center;">Page 10</p> <p>1 Q What was your assignment on September 13th, 2010?</p> <p>2 A You mean a squad number or what...?</p> <p>3 Q What were you assigned to do that day?</p> <p>4 A My --</p> <p>5 Q What was your job responsibility?</p> <p>6 A Police officer, and to convey a prisoner from the</p> <p>7 Prisoner Processing Section to the hospital.</p> <p>8 Q Were you specifically assigned to conveyance on that</p> <p>9 day, or was it just an assignment that you got while</p> <p>10 you were out patrolling?</p> <p>11 A It was a dispatch assignment.</p> <p>12 Q So you were patrolling that day?</p> <p>13 A No. I didn't even get a chance to patrol.</p> <p>14 Q And what assignment do you recall receiving?</p> <p>15 A It came over as a take a prisoner for a medical from</p> <p>16 Prisoner Processing Section to the hospital for a</p> <p>17 seizure.</p> <p>18 Q And when you received that dispatch, where were you</p> <p>19 at?</p> <p>20 A Sitting in my squad car.</p> <p>21 Q Near the police station or somewhere else?</p> <p>22 A In our garage.</p> <p>23 Q Were you just preparing to go out on patrol with</p> <p>24 Officer Kroes?</p> <p>25 A Correct.</p>	<p style="text-align: center;">Page 12</p> <p>1 A No.</p> <p>2 Q ...at that time?</p> <p>3 A No.</p> <p>4 Q Did it appear that Mr. Perry had any visible signs of</p> <p>5 injury on his body?</p> <p>6 A No.</p> <p>7 Q Did it appear that Mr. Perry had urinated or defecated</p> <p>8 on himself at that time?</p> <p>9 A No.</p> <p>10 Q Did you hear him mumbling or groaning or yelling out</p> <p>11 in pain at all?</p> <p>12 A From when before we even left to the hospital? No.</p> <p>13 Q Okay.</p> <p>14 A No.</p> <p>15 Q Would you describe the physical condition that you</p> <p>16 observed of Mr. Perry as anything other than normal</p> <p>17 the first time you saw him?</p> <p>18 A He looked normal to me.</p> <p>19 Q Officer Kroes then went with Mr. Perry in the back of</p> <p>20 the ambulance and you followed with the squad,</p> <p>21 correct?</p> <p>22 A Correct.</p> <p>23 Q When you arrived at the hospital, tell me what</p> <p>24 happened with Mr. Perry.</p> <p>25 A The -- I parked my squad car and let the dispatcher</p>

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<p style="text-align: center;">Page 13</p> <p>1 know that we were 23, which means basically we were at 2 the hospital. He was taken out of the back of the 3 ambulance and put into a room. 4 Q Who removed Mr. Perry from the ambulance? 5 A The paramedics. 6 Q Was he rolled out of the ambulance on the cot? 7 A Correct. 8 Q And then was the cot rolled into the hospital? 9 A Correct. 10 Q Had Mr. Perry's condition changed at all during that 11 conveyance? 12 A No. 13 Q So when you saw him removed from the ambulance, you 14 would still describe him as normal, true? 15 A Yes. 16 Q And Mr. Perry, as he was being rolled into the 17 hospital on the cot by hospital staff, appear to be 18 resistant or combative at that time? 19 A No. 20 Q Was he moaning or groaning in pain? 21 A No. 22 Q Had he urinated or defecated on himself? 23 A No. 24 Q Once he was rolled into the hospital and assigned to a 25 room, did you observe his condition change at all at</p>	<p style="text-align: center;">Page 15</p> <p>1 A I did. This was after the hospital staff took their 2 initial assessment, blood pressure, any type of med-- 3 they asked him if he takes any type of medication. 4 Q Did you see hospital staff undertake a assessment that 5 included vital signs for Mr. Perry? 6 A Correct. 7 Q And what did you see them do in that regard? 8 A They took his blood pressure, they put something on 9 his -- I don't know the exact name of it, but they put 10 something on your finger, which I believe monitors 11 your oxygen, oxygen, how you're breathing, your heart 12 rate. 13 Q Did anybody on staff tell you after Mr. Perry's vitals 14 were taken that they were abnormal? 15 A No. 16 Q All right. Tell me a little bit more about the 17 inquiry that you made of Mr. Perry after hospital 18 staff made their first assessment and found Mr. Perry 19 to be essentially in normal condition. 20 A I basically asked him does he know what happened. I 21 asked him if he knew what date it was. I asked if he 22 knew how long he had been in custody. And I asked him 23 when he was originally arrested, did they bring his 24 medication for seizures with him when he was arrested. 25 Q Did he appear generally responsive?</p>
<p style="text-align: center;">Page 14</p> <p>1 that point in time? 2 A No. 3 Q What happened next, after Mr. Perry was put into the 4 hospital room? 5 A They started taking off the straps that hold them in 6 so they don't fall off the cot, took off the blanket, 7 and they started asking him basically what was his 8 reason for coming to the hospital that day. 9 Q Was he able to respond to hospital staff? 10 A Yes, he answered their questions. 11 Q Did he appear coherent at that time? 12 A Yes. 13 Q Had he lost consciousness at any point in time up 14 until he was answering hospital staff questions? 15 A No. 16 Q And just to be clear, I mean from the moment you first 17 saw him in the back of the ambulance until he was 18 assigned to a hospital room. 19 A He never lost consciousness. 20 Q Did either yourself or Officer Kroes make any inquiry 21 of Mr. Perry up until the point of time where he was 22 answering questions for hospital staff, if you know? 23 A What do you -- quir-- I'm not.... 24 Q Did you ask him any questions of like how was he 25 doing?</p>	<p style="text-align: center;">Page 16</p> <p>1 A Yes. 2 Q Was he spitting at that time? 3 A No. 4 Q Had he urinated or defecated on himself? 5 A No. 6 Q Did he appear to be bleeding from any part of his body 7 at that point in time? 8 A No. 9 Q Had he lost consciousness up to that point in time 10 that you're aware of? 11 A No. 12 Q How did you become advised that he needed medications 13 for seizure issues? 14 A I wasn't notified that he needed specific medicine. I 15 was notified to take him to the hospital for treatment 16 of a seizure. 17 Q And then as a result, you inquired as to whether he 18 needed medications for his seizure activity? 19 A No, I did not inquire. 20 Q Well, you mentioned having as part of your discussion 21 with him questions about his seizure medications, 22 correct? 23 A Correct. 24 Q How did that come to pass? Did he tell you, "I need 25 seizure medications"? Did you ask him?</p>

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<p style="text-align: center;">Page 17</p> <p>1 A No. I asked him, when he was arrested, if the</p> <p>2 medication -- I asked him if he takes it on a regular</p> <p>3 basis, and when he was arrested, did they bring that</p> <p>4 medication with him.</p> <p>5 Q And his response was what?</p> <p>6 A He said he did not -- they did not bring any</p> <p>7 medication with him.</p> <p>8 Q When you were talking to Mr. Perry and he was</p> <p>9 generally responsive, was he able to look you in the</p> <p>10 eye and respond?</p> <p>11 A Yes.</p> <p>12 Q Did he appear to be losing consciousness at all during</p> <p>13 that process?</p> <p>14 A No.</p> <p>15 Q How long did you remain at Mr. Perry's side during</p> <p>16 this initial conference that you've discussed?</p> <p>17 A At least a half an hour.</p> <p>18 Q And during that half an hour time period, did you</p> <p>19 continue to closely monitor Mr. Perry?</p> <p>20 A I sat right there in a chair.</p> <p>21 Q Did discussion cease and the two of you just sit next</p> <p>22 to each other for a majority of that half hour after</p> <p>23 your initial conversation?</p> <p>24 A It did.</p> <p>25 Q So he didn't try to engage further conversation with</p>	<p style="text-align: center;">Page 19</p> <p>1 A Okay.</p> <p>2 Q All right. So he's handcuffed to the bed, correct?</p> <p>3 A Mm-hmm. Mm-hmm.</p> <p>4 MS. LAPPEN: Is that a yes?</p> <p>5 BY MR. GENDE:</p> <p>6 Q Is that a yes?</p> <p>7 A Yes.</p> <p>8 MS. LAPPEN: Okay.</p> <p>9 BY MR. GENDE:</p> <p>10 Q And while he's handcuffed to the bed, did he appear or</p> <p>11 make any movement like he wanted to escape or leave</p> <p>12 the hospital?</p> <p>13 A No.</p> <p>14 Q In order to go to the restroom, was the handcuff</p> <p>15 removed from the bed?</p> <p>16 A Yes.</p> <p>17 Q And did Officer Kroes do that?</p> <p>18 A I do not know which one of us took the handcuff off.</p> <p>19 Q And once the handcuff was removed, was Mr. Perry then</p> <p>20 handcuffed at his arms before he went to the restroom?</p> <p>21 A He didn't still have the cuffs on, because we walked</p> <p>22 him to the bathroom.</p> <p>23 Q So both --</p> <p>24 A We'd escort him.</p> <p>25 Q Both you and Officer Kroes escorted him to the</p>
<p style="text-align: center;">Page 18</p> <p>1 you and you didn't try to engage further conversation</p> <p>2 with him?</p> <p>3 A He had asked -- He said he needed to use the bathroom.</p> <p>4 Q Was he allowed to do that?</p> <p>5 A He was.</p> <p>6 Q And tell me how that process went forward.</p> <p>7 A Basically, while I was sitting there with him, he said</p> <p>8 that he needed to use the bathroom. And I asked him</p> <p>9 number one or number two, and that I would go get</p> <p>10 Officer Kroes to go with him.</p> <p>11 Q And by the way, during this half-hour time period that</p> <p>12 you've described, was Mr. Perry restrained in any</p> <p>13 manner to the hospital bed he was in?</p> <p>14 A No.</p> <p>15 Q Had no cuffs on?</p> <p>16 A No.</p> <p>17 Q Had no leg shackles on?</p> <p>18 A No.</p> <p>19 Q And spit mask had not -- or an expectorant shield had</p> <p>20 not been applied at that time, true?</p> <p>21 A Correct.</p> <p>22 Q And during this half-hour time period where Mr. Perry</p> <p>23 was unsecured in the hospital bed, did --</p> <p>24 A He had -- He had a handcuff to the bed, but...</p> <p>25 Q That's what I'm looking for.</p>	<p style="text-align: center;">Page 20</p> <p>1 bathroom, correct?</p> <p>2 A Correct.</p> <p>3 Q Was he able to walk on his own at that point?</p> <p>4 A Yes.</p> <p>5 Q Did he appear to be wobbly or have an unsteady gait?</p> <p>6 A No.</p> <p>7 Q He had not urinated or defecated on himself at that</p> <p>8 point, correct?</p> <p>9 A Correct.</p> <p>10 Q He was still responsive to your inquiries?</p> <p>11 A Yes.</p> <p>12 Q And was there a particular reason why handcuffs were</p> <p>13 not reapplied after Mr. Perry was let off the hospital</p> <p>14 bed to go to the restroom?</p> <p>15 A I -- It's kind of hard to use the bathroom with</p> <p>16 handcuffs on, I would imagine, as a man, a male.</p> <p>17 Q So in order that he can use the bathroom without</p> <p>18 complications, handcuffs were not put back on,</p> <p>19 correct?</p> <p>20 A Correct.</p> <p>21 Q Did you feel that Mr. Perry was a safety risk without</p> <p>22 his handcuffs on as he was being escorted to the</p> <p>23 bathroom?</p> <p>24 A I wouldn't say he was totally a flight risk or</p> <p>25 anything like that. I would say there's no such thing</p>

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<p>1 as a safe prisoner.</p> <p>2 Q Let me put it this way. When you have somebody in</p> <p>3 custody, you're always concerned for your own safety</p> <p>4 as an officer, correct?</p> <p>5 A Correct.</p> <p>6 Q And that's something that you vigilantly monitor</p> <p>7 because you don't want to be injured and you don't</p> <p>8 want to see anybody else injured from the prisoner,</p> <p>9 correct?</p> <p>10 A Correct.</p> <p>11 Q But at this point in time, Mr. Perry did not present</p> <p>12 such a risk that you felt it necessary to have him</p> <p>13 handcuffed as he was escorted to the bathroom, true?</p> <p>14 A Right. Right.</p> <p>15 Q In your opinion, did Officer Kroes feel the same way,</p> <p>16 if you know?</p> <p>17 A I do not know.</p> <p>18 Q Did Officer Kroes say, "Hey, we should cuff Mr. Perry</p> <p>19 while he goes to the restroom"?</p> <p>20 A No.</p> <p>21 Q How long was Mr. Perry using the restroom before he</p> <p>22 was brought back to his hospital bed?</p> <p>23 A A couple minutes.</p> <p>24 Q And when he came out of the restroom, would you</p> <p>25 describe his condition as having changed at all</p>	<p>1 Q Do you know if Mr. Perry had been administered any</p> <p>2 medication up to this point in time by hospital staff?</p> <p>3 A I don't recall at this point them administering any</p> <p>4 type of medication.</p> <p>5 Q An I.V. did not have to be removed so he could go to</p> <p>6 the bathroom, correct?</p> <p>7 A Correct.</p> <p>8 Q And you didn't see Mr. Perry take any medication</p> <p>9 orally up until the point in time that we have</p> <p>10 reached, correct?</p> <p>11 A Correct.</p> <p>12 Q So you left for a couple minutes to get a drink and</p> <p>13 came back, true?</p> <p>14 A Correct.</p> <p>15 Q How was Mr. Perry when you returned?</p> <p>16 A Still the same.</p> <p>17 Q Did Officer Kroes report to you any change in</p> <p>18 condition of Mr. Perry?</p> <p>19 A Officer Kroes had told me that he had another seizure.</p> <p>20 Q Had a seizure while you were gone?</p> <p>21 A Mm-hmm.</p> <p>22 Q Is that a yes?</p> <p>23 A Yes.</p> <p>24 Q And do you know if medical staff responded to that</p> <p>25 seizure in your absence?</p>
Page 22	Page 24
<p>1 physically?</p> <p>2 A No.</p> <p>3 Q Still responsive?</p> <p>4 A Yes.</p> <p>5 Q Still able to walk of his own accord, correct?</p> <p>6 A Yes.</p> <p>7 Q And then did you have to assist him back to his bed?</p> <p>8 A I mean, we were -- escorted him back to the bed, but</p> <p>9 he didn't need help getting, physically getting into</p> <p>10 the bed.</p> <p>11 Q So he walked on his own, right?</p> <p>12 A Correct.</p> <p>13 Q Nobody had to hold him up?</p> <p>14 A No.</p> <p>15 Q And when he got back in the bed, was the cuff then</p> <p>16 reapplied to him in the bed?</p> <p>17 A Correct.</p> <p>18 Q Did you stay by his side after he went back in the</p> <p>19 bed?</p> <p>20 A I did.</p> <p>21 Q And for how much longer were you by his side while he</p> <p>22 remained in the bed?</p> <p>23 A At least a couple more minutes. After he had came</p> <p>24 back from the restroom, I asked Officer Kroes to sit</p> <p>25 with him while I went to get something to drink.</p>	<p>1 A I do not know.</p> <p>2 Q Did Officer Kroes tell you whether medical staff had</p> <p>3 responded to Mr. Perry's seizure in your absence?</p> <p>4 A No.</p> <p>5 Q When you saw Mr. Perry then after returning from</p> <p>6 getting something to drink, did you ask him any</p> <p>7 questions about what had just happened?</p> <p>8 A No.</p> <p>9 Q Was he having any seizure activity when you returned?</p> <p>10 A Yeah. He had another one after, a couple more minutes</p> <p>11 after I returned.</p> <p>12 Q All right. And what did you and/or Officer Kroes do</p> <p>13 when he had that second seizure in your presence?</p> <p>14 A I guess you could say we observed him having a</p> <p>15 seizure, and we, when the nurse, a nurse came back in</p> <p>16 and we had told them that he had -- we were basically</p> <p>17 counting how many seizures that he was having.</p> <p>18 Q Do you know if Officer Kroes called for medical</p> <p>19 assistance when Mr. Perry had that seizure in your</p> <p>20 absence?</p> <p>21 A I do not.</p> <p>22 Q Did you ask him if he called for medical assistance?</p> <p>23 A No.</p> <p>24 Q And when Mr. Perry started the second seizure in your</p> <p>25 presence, did you or Officer Kroes call for medical</p>

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<p style="text-align: center;">Page 25</p> <p>1 assistance?</p> <p>2 A Basically when a nurse came back in, we had told them</p> <p>3 that he had another seizure.</p> <p>4 Q Well, my question is, as you were observing the</p> <p>5 seizure activity, did you press any buttons or call</p> <p>6 for the nurse requesting medical assistance?</p> <p>7 A I did not.</p> <p>8 Q When the nurse returned and you informed her that Mr.</p> <p>9 Perry had had two seizures in their absence, what, if</p> <p>10 anything, was done at that time?</p> <p>11 A I -- I can't remember what they did.</p> <p>12 Q How much time elapsed from the second seizure that you</p> <p>13 observed until the nurse came back in to check on Mr.</p> <p>14 Perry's status?</p> <p>15 A I do not know the exact time, how much time elapsed.</p> <p>16 Q More than five minutes, less than five minutes?</p> <p>17 A More than five minutes.</p> <p>18 Q More than half an hour, less than half an hour?</p> <p>19 A Less than half an hour.</p> <p>20 Q When that nurse came back in, do you recall her name</p> <p>21 or what she looked like?</p> <p>22 A I don't recall her name. I could -- the only thing I</p> <p>23 remember, that was a white female.</p> <p>24 Q What color hair?</p> <p>25 A I can't remember that.</p>	<p style="text-align: center;">Page 27</p> <p>1 Perry or Mr. Perry and Officer Kroes after the second</p> <p>2 seizure?</p> <p>3 A I know I didn't have -- I didn't talk to him again.</p> <p>4 Q Were nursing staff eventually able to get an I.V. into</p> <p>5 Mr. Perry?</p> <p>6 A Yes.</p> <p>7 Q How much time did that take? Approximately.</p> <p>8 A Half hour.</p> <p>9 Q And during that time period, did Mr. Perry have any</p> <p>10 further seizure activity?</p> <p>11 A He had one more after the I.V. was put in.</p> <p>12 Q Were nursing staff present when that occurred?</p> <p>13 A No, they were not. It was just me and Officer Kroes.</p> <p>14 Q Did you ever see a doctor come in and observe Mr.</p> <p>15 Perry while you were present?</p> <p>16 A Yeah. At least once.</p> <p>17 Q When Mr. Perry had the third seizure, did either you</p> <p>18 or Officer Kroes call for medical assistance, push a</p> <p>19 button, call out for a nurse?</p> <p>20 A After the nurse came back in, every time a nurse came</p> <p>21 in to check on him, we let them know he had another</p> <p>22 seizure.</p> <p>23 Q What was their response, if any?</p> <p>24 A I don't remember the exact verbal response each time</p> <p>25 that we were telling this, but I know she was, a</p>
<p style="text-align: center;">Page 26</p> <p>1 Q Older, younger?</p> <p>2 A Mid 20s.</p> <p>3 Q When the nurse came back in, you informed her of the</p> <p>4 seizure activity, what did she do next?</p> <p>5 A At this point, they're starting to -- they're going to</p> <p>6 -- an I.V.</p> <p>7 Q They put a I.V. into Mr. Perry?</p> <p>8 A They were trying to.</p> <p>9 Q And other than the seizure activity, how would you</p> <p>10 describe Mr. Perry's condition having changed, if at</p> <p>11 all?</p> <p>12 A It didn't.</p> <p>13 Q So he had the second seizure, he was still responsive</p> <p>14 to inquiry?</p> <p>15 A After each -- After the second seizure, he started to</p> <p>16 get -- to me, he looked drowsy.</p> <p>17 Q And when you say "drowsy," did you see his eyes</p> <p>18 rolling back in his head, did his eyelids go to half-</p> <p>19 mast, was his head slumping forward? How would you</p> <p>20 describe it?</p> <p>21 A No. He -- he looked sleepy, to me.</p> <p>22 Q Did you inquire of him at that time how he was</p> <p>23 feeling, anything of that nature?</p> <p>24 A No.</p> <p>25 Q There was no conversation between either you and Mr.</p>	<p style="text-align: center;">Page 28</p> <p>1 nurse, she was like, "Okay. I'll let the doctor</p> <p>2 know."</p> <p>3 Q Why did you and Officer Kroes remain in the presence</p> <p>4 of Mr. Perry during this time period? Why did you</p> <p>5 stay with the prisoner?</p> <p>6 A Because we can't leave prisoners alone by themselves.</p> <p>7 Q Is that standard operating procedure for the Milwaukee</p> <p>8 Police Department?</p> <p>9 A Correct.</p> <p>10 Q All right. Is there any observation requirements for</p> <p>11 somebody who is being physically restrained that</p> <p>12 you're aware of?</p> <p>13 A Yeah. We have to stay with our prisoner. We can't</p> <p>14 leave him even at the hospital or -- they can't be</p> <p>15 left alone.</p> <p>16 Q Did your concern for Mr. Perry's deteriorate -- well,</p> <p>17 strike that. Did you feel that Mr. Perry's condition</p> <p>18 was deteriorating during these series of seizures?</p> <p>19 A Yes, I did.</p> <p>20 Q And did your concern level for his well-being go up or</p> <p>21 go down as you were observing his seizure activity?</p> <p>22 A It went up.</p> <p>23 Q Do you know if Officer Kroes became more concerned or</p> <p>24 less concerned as Mr. Perry continued to have seizure</p> <p>25 activity?</p>

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Page 29	Page 31
<p>1 A I do not know how -- if Officer Kroes was -- I don't 2 know. 3 Q Did you know that Officer Kroes had medical training 4 as a paramedic before coming onto the police 5 department? 6 A I did. 7 Q Did he express to you any medical opinions about what 8 may be happening with Mr. Perry in the absence of 9 nurses and while Mr. Perry was having seizure 10 activity? 11 A Are you asking me if Officer Kroes was trying to give 12 his diagnosis of what happened or what he thought was 13 going on with Mr. Perry, or... 14 Q Not necessarily a diagnosis, but was he providing you 15 an opinion as, "This is not right. This is bad. We 16 need a nurse here. Medications need to be 17 administered," things of that nature. 18 A No. 19 Q After the third seizure and the nurse returned, what 20 discussions were had about Mr. Perry's condition? 21 A Between who? 22 Q Between yourselves and hospital staff. 23 A I wouldn't really say there was a discussion, other 24 than that we kept -- every seizure that we have, we 25 would tell the medical staff, either the nurse, and</p>	<p>1 being administered to Mr. Perry, how much time elapsed 2 before he left the hospital? 3 A One hour. 4 Q And during that one hour time period, did you see Mr. 5 Perry have any additional seizure activity? 6 A No. 7 Q Were you able to converse normally with him during 8 that one hour time period? 9 A I did speak with him, and it was not the way -- me and 10 him, we weren't speaking exactly. He wasn't the same 11 condition as when we first got there, and I asked him 12 if he knew what had happened. It had changed. 13 Q Did he appear to be less coherent? 14 A Yes. 15 Q Was he in and out of consciousness? 16 A It's hard to describe. I've never -- I do not know if 17 he was conscious or unconscious. The best way I can 18 describe it is that he could hear what we were saying 19 to him, but he could not give us a direct answer. 20 Q Was he able to look you in the eye like he had earlier 21 in the evening? 22 A He did not look me in my eye. 23 Q Was he able to hold his head up, was it slumped 24 forward? 25 A It wasn't slumped forward.</p>
Page 30	Page 32
<p>1 she just kept telling us, "I'll let the doctor know." 2 Q Up until that point in time, had you ever expressed to 3 medical staff that you believe Mr. Perry was faking 4 any of his conditions? 5 A No. 6 Q Up until that point in time, had Officer Kroes 7 expressed to any medical staff that Mr. Perry was 8 faking his conditions? 9 A No. 10 Q Did you or Officer Kroes up until that point in time 11 have a conversation that Mr. Perry appeared to be 12 faking any of his conditions? 13 A No. 14 Q After the third seizure and the nurse returned, do you 15 know if any medication was administered? 16 A There was something put into a I.V., but I don't know 17 what it was. 18 Q Did hospital staff ever advise what type of 19 medications they were administering to Mr. Perry? 20 A No. 21 Q Did -- 22 A I wasn't advised of the exact medication, what he was 23 given, until towards the end of -- just before we got 24 ready to transport him. 25 Q After the third seizure and after you saw medications</p>	<p>1 Q Was he laying down in bed or had he been propped up? 2 A He was propped up. 3 Q During that one hour time period after the third 4 seizure and after some additional medication had been 5 administered, did your concern level for Mr. Perry's 6 condition continue to go up, remain the same, go down? 7 A I was always concerned for him. I had asked 8 specifically what medication he was given, and I had 9 felt after he was given medication that his condition 10 should have been improving. 11 Q And did you observe improvement? 12 A No. 13 Q During that one hour time period, were you and Officer 14 Kroes discussing Mr. Perry's declining condition? 15 A I -- Yes. 16 Q And tell me about those discussions. 17 A We were basically wondering why there wasn't -- why he 18 wasn't improving. 19 Q Why he appeared to be getting worse? 20 A I don't know if it was worse, but it was different 21 from when he first arrived. 22 Q Did Officer Kroes offer any opinions? 23 A No. 24 Q How often were hospital staff checking on Mr. Perry 25 during this one hour time period after the third</p>

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<p style="text-align: center;">Page 33</p> <p>1 seizure and during the course of your conversations 2 with Officer Kroes about Mr. Perry not improving? 3 A How long were the hospital staff coming in or how 4 frequent? 5 Q How many -- yeah. How frequent did they come in and 6 check? 7 A I don't know exact number. 8 Q And when they would come back in and check, did you 9 and Officer Kroes express to them your concern that 10 Mr. Perry seemed to be getting worse as opposed to 11 better? 12 A Yes. 13 Q And how did they respond? 14 A The -- It was -- When we had told them about it, it 15 seemed -- it was really brief. I told them about 16 what, you know, I basically asked what was going on 17 with him, why his condition is so different, and 18 eventually the only thing that they -- "Well, it's 19 just from the medication that we gave him." 20 Q And when you say his condition was so different, 21 describe that for me. How was it so different? 22 A It was different than, when he first got there, he was 23 talking to me, he knew what date it was, he knew where 24 he was, and towards the end of our visit, he like -- 25 he was sleepy, drowsy. At this point, if he -- we had</p>	<p style="text-align: center;">Page 35</p> <p>1 period that we've discussed, restrained to the 2 hospital bed? 3 A He was cuffed with the exception of taking the cuffs 4 off so that he could put his arms in the shirt. 5 Q During this one hour time period after the third 6 seizure and before the discharge, did you, as part of 7 your discussions with Officer Kroes, suggest that Mr. 8 Perry may be faking? 9 A No. 10 Q How did the discharge process unfold? Tell me what 11 happened. 12 A I was concerned because obviously, as I said before, 13 his condition wasn't better, and I expressed that to 14 the nurse and the doctor. And I had asked the doctor 15 what exactly what did they give him, what type of 16 medication, why is he -- why was he acting like this, 17 why can't -- I was basic-- I asked the doctor to 18 explain to me what exactly what treatment they gave 19 him. 20 Q Was the doctor responsive? 21 A Yes. 22 Q And were you satisfied with the doctor's explanation 23 as to what treatment Mr. Perry received? 24 A No. 25 Q Why were you unsatisfied with that?</p>
<p style="text-align: center;">Page 34</p> <p>1 to get him dressed before we left the hospital. 2 Q Who had undressed him when he arrived at the hospital? 3 A The hospital staff. Well, he wasn't -- his shirt was 4 taken off and a gown was placed on him. 5 Q Then when you left the hospital, how did he need to be 6 dressed? 7 A We had to put his shoes back on and his shirt. 8 Q And when you were putting his shoes back on and his 9 shirt, was Mr. Perry conscious or unconscious? 10 A It was the same thing, the same what I had told you 11 before, that it's hard to -- I don't know if he was 12 conscious or unconscious. It was the same thing I 13 said earlier, that he could hear us but he couldn't 14 give us a direct response. 15 Q Did you or Officer Kroes inquire or request that Mr. 16 Perry put on his own shirt or put on his own shoes? 17 A Yes. 18 Q And did he respond? 19 A Not verbally. 20 Q How did he respond? 21 A Initially, he started -- he picked his shirt up and 22 put his hands and arms in it, and was, I guess you 23 could say, trying to put the shirt on, but it -- yeah, 24 he couldn't. 25 Q Did Mr. Perry remain cuffed during this one hour time</p>	<p style="text-align: center;">Page 36</p> <p>1 A Because I expected him -- his condition should have 2 been the same as when he arrived. 3 Q Had Mr. Perry done anything to anger or upset you 4 during the period that you had transported him to the 5 hospital and while you were monitoring him in the 6 emergency room? 7 A No. 8 Q Had he taken any actions whatsoever which suggests 9 that he was resistive or combative to being in your 10 and Officer Kroes's custody? 11 A He did not try and kick us or hit us or anything like 12 that. But at the same time we were, you know -- I'm 13 instructing him to put your shoes on, put your shirt 14 on, and he just -- he couldn't do it. 15 Q After your conversation with the doctor where you 16 expressed your elevated concern and demanded that he 17 provide some explanation as to the treatment that Mr. 18 Perry had received, was Officer Kroes engaged in this? 19 Was he asking questions as well? 20 A He was standing next to me. 21 Q At the end of the conversation where the doctor 22 responded to your inquiries and you were not 23 satisfied, did you tell the doctor you were not 24 satisfied? 25 A I did not specifically. I didn't use that verbiage</p>

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<p style="text-align: center;">Page 37</p> <p>1 that I wasn't satisfied.</p> <p>2 Q So was the doctor telling you he's going to be</p> <p>3 discharged?</p> <p>4 A Yes.</p> <p>5 Q And your response was, "He's worse. We don't</p> <p>6 understand why he's worse. He should be better," or</p> <p>7 words to that effect?</p> <p>8 A I -- Yes.</p> <p>9 Q Did the doctor give you any discharge instructions,</p> <p>10 saying, "Well, he should be monitored for X, Y, Z. If</p> <p>11 he gets worse, bring him back," things of that nature?</p> <p>12 A After we -- I had expressed my concern about what</p> <p>13 exactly treatment he gave Mr. Perry, he had told me</p> <p>14 that it was just from the medication that they gave</p> <p>15 him, it was going to make him sleepy, and that he</p> <p>16 could sleep it off on a bench.</p> <p>17 Q Were any nurses present when this conversation took</p> <p>18 place?</p> <p>19 A No.</p> <p>20 Q Did the doctor ever express to you during the course</p> <p>21 of this conversation that he believed Mr. Perry was</p> <p>22 faking his conditions?</p> <p>23 A No.</p> <p>24 Q Did you or Officer Kroes during the course of this</p> <p>25 conversation tell the doctor, "We believe Mr. Perry is</p>	<p style="text-align: center;">Page 39</p> <p>1 could rest, no, they did not.</p> <p>2 Q Then after this 30-minute or so time period, what</p> <p>3 happened next?</p> <p>4 A I called the supervisor that was working at the</p> <p>5 Prisoner Processing Section that day.</p> <p>6 Q And by the way, during that 30 minutes after the</p> <p>7 conversation with the doctor where you expressed your</p> <p>8 dissatisfaction with Mr. Perry's physical condition</p> <p>9 and he said -- and the doctor said he's going to be</p> <p>10 discharged, did your concern level go up, go down, or</p> <p>11 remain the same as it relates to Mr. Perry?</p> <p>12 A It remained the same.</p> <p>13 Q And would you say that was a high level of concern,</p> <p>14 based on what you had observed over the last two to</p> <p>15 three hours?</p> <p>16 A I certainly called the supervisor to let him -- let</p> <p>17 them know what was going on.</p> <p>18 Q Supervisor being Lieutenant Robbins?</p> <p>19 A Yes.</p> <p>20 Q Did you know Lieutenant Robbins before September 13th,</p> <p>21 2010?</p> <p>22 A Not personally. Just through work.</p> <p>23 Q And your purpose in calling Lieutenant Robbins was</p> <p>24 what?</p> <p>25 A To let him know what Mr. Perry's condition was, how --</p>
<p style="text-align: center;">Page 38</p> <p>1 faking his condition"?</p> <p>2 A No.</p> <p>3 Q What happened after the conversation with the doctor</p> <p>4 ended?</p> <p>5 A He, after the -- when he had told us it was the</p> <p>6 medication that we just gave him making him sleepy, he</p> <p>7 offered -- he basically had told us he's still going</p> <p>8 to be discharged, and if we wanted to, we could stay</p> <p>9 there a little bit longer with Mr. Perry so that he</p> <p>10 could rest.</p> <p>11 Q And did you do that?</p> <p>12 A After the -- yes, we did. We did stay there longer.</p> <p>13 Q How much longer?</p> <p>14 A At least a half an hour.</p> <p>15 Q And during that 30 more minutes, did you closely</p> <p>16 monitor Mr. Perry?</p> <p>17 A I was right there. I never left the room. I was</p> <p>18 right there.</p> <p>19 Q Did he appear to be getting better or worse, in your</p> <p>20 opinion?</p> <p>21 A It was the same.</p> <p>22 Q Did hospital staff continue to check in on him?</p> <p>23 A No.</p> <p>24 Q And then --</p> <p>25 A After offering that if we wanted to -- so that he</p>	<p style="text-align: center;">Page 40</p> <p>1 what we were seeing at the hospital.</p> <p>2 Q Which was what?</p> <p>3 A I explained to the supervisor that his condition, it</p> <p>4 wasn't the same as when we first got there, and that I</p> <p>5 asked if we could take him to the Criminal Justice</p> <p>6 Facility instead of taking him to the Prisoner</p> <p>7 Processing Section.</p> <p>8 Q Did you express concern to Lieutenant Robbins that Mr.</p> <p>9 Perry seemed to be worse than when he went to the</p> <p>10 emergency room?</p> <p>11 A I didn't specifically say that it was worse, but I let</p> <p>12 him know that he -- I had specifically told Lieutenant</p> <p>13 Robbins that he couldn't -- he can't -- he couldn't</p> <p>14 walk. He -- I let him know that we had to get him</p> <p>15 dressed.</p> <p>16 Q Did you express any other concerns to Lieutenant</p> <p>17 Robbins at that time?</p> <p>18 A No.</p> <p>19 Q Why did you request permission of your supervising</p> <p>20 lieutenant to take Mr. Perry directly to the CJF?</p> <p>21 A I, with his condition being different, I thought it</p> <p>22 would be -- basically, I wanted him to be monitored by</p> <p>23 a nurse, a registered nurse.</p> <p>24 Q So it was your position that Mr. Perry would have</p> <p>25 better medical supervision being taken directly to CJF</p>

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<p>1 as opposed to being returned to the Prisoner Processing Section?</p> <p>2</p> <p>3 A A nurse has more training than we do, so....</p> <p>4 Q You knew there were nurses at CJF, right?</p> <p>5 A Yes.</p> <p>6 Q Was there any reason why you did not request taking Mr. Perry to another hospital for further evaluation?</p> <p>7</p> <p>8 A No, there was not a specific reason.</p> <p>9 Q Are you discouraged from taking an inmate from one hospital to another hospital in the event you're unsatisfied with their condition upon discharge?</p> <p>10</p> <p>11</p> <p>12 A No, we're not discouraged. I've never encountered a situation where if we felt that the prisoner wasn't given the proper treatment, I've never been faced with that position. But, no, we're not discouraged.</p> <p>13</p> <p>14 Q How did Lieutenant Robbins respond to your concerns and expressions that Mr. Perry could not walk, that he was unable to dress himself, that he was in worse condition than when he had shown up at the emergency room?</p> <p>15</p> <p>16 A Lieutenant Robbins was -- it sounded like he was looking at some paperwork, I'm assuming probably to see where exactly he was in the arrest process, and he informed me that he had to come back to the Prisoner Processing Section. His paperwork wasn't complete yet</p>	<p>1 did you have any further contact with medical staff?</p> <p>2 A No.</p> <p>3 Q Who was provided the discharge instructions for Mr. Perry? Did you receive those or Officer --</p> <p>4</p> <p>5 A The paperwork?</p> <p>6 Q Yes.</p> <p>7 A I do not know which one of us got the paperwork.</p> <p>8 Q When you received the paperwork, which would include discharge instructions for Mr. Perry, did a nurse or a doctor say anything about what to look out for as it relates to Mr. Perry's condition?</p> <p>9</p> <p>10</p> <p>11</p> <p>12 A I don't remember a specific nurse or doctor telling me the exact words, but I remember looking at the paperwork and it said if his condition changed, to bring him back to the hospital.</p> <p>13</p> <p>14 Q Who pushed Mr. Perry out in the wheelchair?</p> <p>15</p> <p>16 A I -- I don't know.</p> <p>17 Q Was he able to hold his head up at that point in time?</p> <p>18</p> <p>19 A I don't remember if he was holding his head up.</p> <p>20 Q Do you know if he was conscious or unconscious?</p> <p>21</p> <p>22 A His condition, what you asked me before, it didn't change. It was still the same. He wasn't -- it was the same.</p> <p>23</p> <p>24 Q He wasn't bleeding from anywhere.</p> <p>25</p> <p>25 A No.</p>
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<p>1 for -- enough for us to transport him over to the Criminal Justice Facility.</p> <p>2</p> <p>3 Q Did you express to Lieutenant Robbins that your purpose for getting Mr. Perry directly to CJF was so he could have closer medical supervision by nursing staff?</p> <p>4</p> <p>5</p> <p>6 A I didn't specifically, no.</p> <p>7</p> <p>8 Q Lieutenant Robbins said, "You have to bring him back because we don't have the paperwork complete," or words to that effect?</p> <p>9</p> <p>10</p> <p>11 A Correct.</p> <p>12 Q Do you recall Lieutenant Robbins giving you any other instruction?</p> <p>13</p> <p>14 A No.</p> <p>15 Q What happened next?</p> <p>16</p> <p>17 A Me and Officer Kroes, we finished dressing him, put him in a wheelchair, we took him out to our squad.</p> <p>18</p> <p>19 Q When you put Mr. Perry in the wheelchair, did he appear to be able to ambulate on his own?</p> <p>20</p> <p>21 A No.</p> <p>22 Q Tell me what the transfer process was to get Mr. Perry in the wheelchair.</p> <p>23</p> <p>24 A Basically, me and Officer Kroes -- he wasn't able to get in a wheelchair on his own.</p> <p>25</p> <p>25 Q Once you and Officer Kroes put him in the wheelchair,</p>	<p>1 Q He hadn't urinated or defecated on himself yet.</p> <p>2</p> <p>3 A No.</p> <p>4 Q He had no signs of visible injury that you could see, right?</p> <p>5</p> <p>6 A Correct.</p> <p>7 Q He hadn't started spitting yet, true?</p> <p>8</p> <p>9 A Correct.</p> <p>10 Q Had he made any complaints of difficulty with breathing up to that point in time?</p> <p>11</p> <p>12 A No.</p> <p>13 Q Had he said anything to the extent that somebody was trying to kill him or hurt him?</p> <p>14</p> <p>15 A No.</p> <p>16 Q Were additional officers assigned to transport Mr. Perry back to PPS?</p> <p>17</p> <p>18 A There were more officers. It was -- from -- Yes, there were more officers to help transport Mr. Perry back to Prisoner Processing Section.</p> <p>19</p> <p>20 Q Did they show up at the emergency room?</p> <p>21</p> <p>22 A No.</p> <p>23 Q Tell me how Mr. Perry was transferred to the squad from the wheelchair.</p> <p>24</p> <p>25 A Me and Officer Kroes pretty much put him in there. We picked, I mean....</p> <p>25 Q Was he able to walk on his own accord?</p>

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<p style="text-align: center;">Page 45</p> <p>1 A Not 100 percent.</p> <p>2 Q Did you instruct him to get into the vehicle?</p> <p>3 A I did.</p> <p>4 Q And what was his response?</p> <p>5 A I was asking him to -- because he wasn't really</p> <p>6 offering to help us get him in the chair, so I asked</p> <p>7 him, "Can you stand up? Stand up."</p> <p>8 Q Did you believe he was faking any of his conditions at</p> <p>9 this time?</p> <p>10 A No.</p> <p>11 Q Did Officer Kroes tell you that he thought Mr. Perry</p> <p>12 was faking any of his conditions at this time?</p> <p>13 A No.</p> <p>14 Q Tell me why you didn't believe Mr. Perry was faking</p> <p>15 his condition at this time.</p> <p>16 A It's not -- How can you -- There's no -- It doesn't</p> <p>17 matter if, I mean....</p> <p>18 Q Well, you've been --</p> <p>19 A I'm not a doctor. I mean, who am I to say if he's</p> <p>20 faking or not?</p> <p>21 Q Well, you'd been observing him for two or three hours,</p> <p>22 correct?</p> <p>23 A Yeah.</p> <p>24 Q And you saw his condition deteriorate, correct?</p> <p>25 A Yeah. It changed.</p>	<p style="text-align: center;">Page 47</p> <p>1 A Yes, I did.</p> <p>2 Q And when you belted him, was he responsive to any</p> <p>3 movements that you made?</p> <p>4 A I put the seatbelt on him and....</p> <p>5 Q He wasn't resistant at that time?</p> <p>6 A No.</p> <p>7 Q He didn't try and use his head to head-butt you or</p> <p>8 flail his arms or his legs, correct?</p> <p>9 A Correct.</p> <p>10 Q Do you know if his eyes were open or closed?</p> <p>11 A I do not.</p> <p>12 Q Did he try to spit on you at that time?</p> <p>13 A No.</p> <p>14 Q Did he appear resistant or combative in any way,</p> <p>15 shape, or form when you were belting him into the back</p> <p>16 of the squad?</p> <p>17 A No, he did not try to strike me.</p> <p>18 Q Who drove the squad back to PPS?</p> <p>19 A I do not remember if it was me or my -- Officer Kroes.</p> <p>20 Q Do you recall observing Mr. Perry in the back of the</p> <p>21 squad during that conveyance?</p> <p>22 A I can't -- No. And that's only because I can't</p> <p>23 remember who drove the squad car. So I'm assuming</p> <p>24 whoever would have drove, the other person would have</p> <p>25 specifically looked at him or monitored Mr. Perry.</p>
<p style="text-align: center;">Page 46</p> <p>1 Q It changed while he was at the emergency room. And</p> <p>2 based on your observations, you didn't believe he was</p> <p>3 faking any of his conditions, correct?</p> <p>4 A Correct.</p> <p>5 Q Did somebody at the emergency room tell you that Mr.</p> <p>6 Perry was faking his condition?</p> <p>7 A No.</p> <p>8 Q Never heard a nurse say, "He's fine. He's faking," or</p> <p>9 words to that extent?</p> <p>10 A No.</p> <p>11 Q When Mr. Perry was put in the back of the squad, was</p> <p>12 he cuffed?</p> <p>13 A He would have been hand-- I can't remember</p> <p>14 specifically if he was handcuffed in the back or in</p> <p>15 the front.</p> <p>16 Q But his hands were cuffed.</p> <p>17 A Mm-hmm.</p> <p>18 Q Yes.</p> <p>19 A Yes.</p> <p>20 Q And then when he was put in the back of the squad, was</p> <p>21 he belted?</p> <p>22 A Yeah.</p> <p>23 Q Was he able to belt himself?</p> <p>24 A No.</p> <p>25 Q Did you belt him?</p>	<p style="text-align: center;">Page 48</p> <p>1 Q Up until this point in time in your deposition --</p> <p>2 A Mm-hmm.</p> <p>3 Q -- has there been any suggestion that you're aware of,</p> <p>4 by anybody involved in this lawsuit, that Mr. Perry</p> <p>5 was faking his condition at the emergency room or upon</p> <p>6 his discharge?</p> <p>7 A No.</p> <p>8 Q So that term, "faking it," is not something that</p> <p>9 you've heard up until your deposition?</p> <p>10 A Correct.</p> <p>11 Q How much time elapsed from conveying Mr. Perry from</p> <p>12 the emergency room back to PPS?</p> <p>13 A Few minutes.</p> <p>14 Q Short trip?</p> <p>15 A Yeah. Yes.</p> <p>16 Q And then you arrived at PPS. Did you remain in the</p> <p>17 squad for a period after getting back to PPS?</p> <p>18 A Yes.</p> <p>19 Q For how long?</p> <p>20 A A couple minutes. We were waiting for the other</p> <p>21 officers to respond so that we could get him from the</p> <p>22 garage upstairs to the fifth floor.</p> <p>23 Q And during that time period, were you closely</p> <p>24 monitoring Mr. Perry?</p> <p>25 A I was right next to Mr. Perry.</p>

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13 (Pages 49 to 52)

<p style="text-align: center;">Page 49</p> <p>1 Q Was he moaning or groaning in pain?</p> <p>2 A No.</p> <p>3 Q Was he calling out for help in any way?</p> <p>4 A No.</p> <p>5 Q Was he complaining of difficulty breathing?</p> <p>6 A No.</p> <p>7 Q Had he urinated or defecated on himself during the conveyance process?</p> <p>8 A I did not see any -- No. Once we arrived at the garage, no.</p> <p>10 Q You couldn't smell anything.</p> <p>11 A No.</p> <p>12 Q And as you were closely monitoring him, did you see him bleeding from anywhere?</p> <p>13 A No.</p> <p>14 Q Had he started to spit on himself?</p> <p>15 A No.</p> <p>16 Q Had he become combative or resistive while in the back seat during the conveyance?</p> <p>17 A No.</p> <p>18 Q As you waited in the garage for several minutes for additional officers, did Mr. Perry's condition change?</p> <p>19 A It did not.</p> <p>20 Q When the other officers showed up, do you recall who they were?</p>	<p style="text-align: center;">Page 51</p> <p>1 transport from the hospital to the garage, it was --</p> <p>2 it didn't change as far as what -- he wasn't really</p> <p>3 assisting us to -- we had to do everything for him.</p> <p>4 Q When you and Officer Kroes were bringing Mr. Perry back to PPS, did you have any discussion about, "He just doesn't seem right. He shouldn't have been released. We should take him right to CJF," anything of that nature?</p> <p>5 A Again, that -- Discussing about how we felt he was</p> <p>6 cared for or...?</p> <p>7 Q Discussions about Mr. Perry as you're taking him back to PPS relative to any concerns you had regarding his medical condition or his physical condition.</p> <p>8 A No.</p> <p>9 Q So you two were quiet as you returned to PPS?</p> <p>10 A Yeah. We were busy -- we were carrying him.</p> <p>11 Q I'm talking about when he was in the vehicle and being driven back to PPS, any discussion between you and Officer Kroes?</p> <p>12 A I can't remember.</p> <p>13 Q And then when the supporting or assisting officers showed up to remove Mr. Perry from the vehicle, did you express to them any of the concerns you had previously regarding discharge from the emergency room?</p> <p>14 A No.</p> <p>15 Q Any particular reason why you didn't express concerns to those assisting POs that showed up to remove Mr. Perry from the squad?</p> <p>16 A I basically had told them that they were there to help us carry him from the squad to the hospital.</p> <p>17 Q Carry him from the squad to PPS, you mean?</p> <p>18 A Yes.</p> <p>19 Q Do you need to take a break?</p> <p>20 A Yes.</p> <p>21 Q Okay. Let's take a break. Why don't we take -- is five minutes enough?</p> <p>22 A Yeah, that's fine.</p> <p>23 Q Okay.</p> <p>24 THE REPORTER: Off the record.</p> <p>25 (Off the record 11:33 - 11:45)</p> <p>THE REPORTER: We're back on the record.</p> <p>BY MR. GENDE:</p> <p>Q Officer Jacks, we're now at the point where four officers are carrying Mr. Perry into PPS, correct?</p> <p>A Correct.</p> <p>Q An elevator had to be taken up to the Prisoner Processing Section, correct?</p> <p>A Correct.</p> <p>Q In your deposition, you've previously told me that you</p>
<p style="text-align: center;">Page 50</p> <p>1 A I remember two officers.</p> <p>2 Q And when they showed up, was there any discussion about Mr. Perry's condition between you, Officer Kroes, and the two supporting officers?</p> <p>3 A No.</p> <p>4 Q Did they ask any questions about Mr. Perry's condition?</p> <p>5 A They had asked where we had came from, and I told them the hospital.</p> <p>6 Q Was there any delay in then removing Mr. Perry from the back of the squad?</p> <p>7 A No.</p> <p>8 Q And how was Mr. Perry removed from the back of the squad?</p> <p>9 A Each officer kind of took an arm or a leg, and we physically picked him up.</p> <p>10 Q Did any officer direct Mr. Perry to exit the vehicle on his own?</p> <p>11 A No.</p> <p>12 Q Was it apparent, at least to you, that Mr. Perry was not going to be able to exit the vehicle under his own power?</p> <p>13 A Yes.</p> <p>14 Q And tell me how that was apparent to you.</p> <p>15 A It was apparent to me because the way -- from the</p>	<p style="text-align: center;">Page 52</p> <p>1 A No.</p> <p>2 Q Any particular reason why you didn't express concerns to those assisting POs that showed up to remove Mr. Perry from the squad?</p> <p>3 A I basically had told them that they were there to help us carry him from the squad to the hospital.</p> <p>4 Q Carry him from the squad to PPS, you mean?</p> <p>5 A Yes.</p> <p>6 Q Do you need to take a break?</p> <p>7 A Yes.</p> <p>8 Q Okay. Let's take a break. Why don't we take -- is five minutes enough?</p> <p>9 A Yeah, that's fine.</p> <p>10 Q Okay.</p> <p>11 THE REPORTER: Off the record.</p> <p>12 (Off the record 11:33 - 11:45)</p> <p>13 THE REPORTER: We're back on the record.</p> <p>14 BY MR. GENDE:</p> <p>15 Q Officer Jacks, we're now at the point where four officers are carrying Mr. Perry into PPS, correct?</p> <p>16 A Correct.</p> <p>17 Q An elevator had to be taken up to the Prisoner Processing Section, correct?</p> <p>18 A Correct.</p> <p>19 Q In your deposition, you've previously told me that you</p>

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14 (Pages 53 to 56)

Page 53	Page 55
<p>1 had increasing concern for Mr. Perry's health and 2 welfare during his stay at the emergency room, 3 correct? 4 A Yes. 5 Q And that remained at the same level during his return 6 to PPS, true? 7 A Correct. 8 Q All right. You did not express that concern to the 9 officers that assisted in bringing Mr. Perry into PPS, 10 correct? 11 A Correct. 12 Q Did you express that concern to any officers or 13 supervisors once Mr. Perry was in the Prisoner 14 Processing Section? 15 A No. 16 Q Did you hear Officer Kroes express any of the concerns 17 that you also had to either the officers that assisted 18 in bringing Mr. Perry into PPS or anybody in PPS once 19 Mr. Perry was up there? 20 A No, I did not. 21 Q I apologize. That was a long question. Did you 22 understand it? 23 A Yes. 24 Q Okay. Did you remain by Mr. Perry's side while he was 25 brought back into PPS and before he was put into cell</p>	<p>1 A Once -- Yeah, when he was -- we had him seated on the 2 floor, I smelled some -- yeah. I -- 3 Q But listen to the question. From the time that he was 4 removed from the vehicle, carried to the elevator, 5 went up the elevator, and then was brought into PPS, 6 do you know if he had urinated or defecated on 7 himself? 8 A I do not know the exact point when he urinated or 9 defecated on himself, but once the expectorant shield, 10 had asked for that, I noticed that his, yeah, his 11 pants were wet. 12 Q We'll get to the expectorant shield. 13 A Okay. 14 Q I'm just talking about a very specific time period. 15 A Okay. 16 Q So as you were coming up in the elevator -- 17 A Mm-hmm. 18 Q -- had Mr. Perry urinated or defecated on himself? 19 Did you smell anything? 20 A No. 21 Q Did you see anything? 22 A No. 23 Q Did you see any blood on his mouth, his ear, his 24 shirt, near his groin area? 25 A No.</p>
Page 54	Page 56
<p>1 A3? 2 A Yes. 3 Q And why did you do that? 4 A That was my assignment for the day. 5 Q So you were not relieved from your assignment to hold 6 Mr. Perry in custody and monitor him up until he was 7 put into cell A3? 8 A I'm sorry. Can you repeat that? 9 Q You were not relieved of your assignment to keep Mr. 10 Perry in custody and monitor him until he was put into 11 cell A3? 12 A Correct. 13 Q Tell me how Mr. Perry's condition changed once he 14 entered PPS. 15 A Once we had got him up to PPS, his condition was still 16 the same, which I described earlier, with the -- as 17 far as being that he could hear us but couldn't give 18 us a direct response. It was still like that. We had 19 him -- he was sitting on the ground with his legs 20 extended out in front of him, and now this is -- I see 21 saliva, spit, coming out of his mouth. 22 Q Let me ask you this way. When you and three other 23 officers carried Mr. Perry from the squad, into the 24 elevator, up to PPS, and then put him on the floor at 25 PPS, had he urinated or defecated on himself?</p>	<p>1 Q Was he complaining of difficulty breathing? 2 A I remember him yelling, he said, "Help me." 3 Q I want to talk about just in the elevator. 4 A Okay. No. 5 Q So when he was coming up in the elevator, he was not 6 complaining of difficulty breathing. 7 A I do not remember hearing him verbally say that he 8 couldn't breathe. 9 Q He wasn't calling out for help. 10 A I do not remember him calling out for help. 11 Q He wasn't saying words to the effect that "You 12 officers are killing me," or, "You're killing me"? 13 A No. 14 Q Okay. Wasn't calling to God for assistance, correct? 15 A On the elevator, no. 16 Q And from the moment he exited the elevator until he 17 sat or was positioned on the ground, had any of those 18 conditions changed? Do you want me to run through 19 them again? 20 A Right. 21 Q Okay. Had he uri-- 22 A So now you're asking about his condition once he's off 23 the elevator. 24 Q Once he's off the elevator and at the moment he's sat 25 on the ground...</p>

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15 (Pages 57 to 60)

<p style="text-align: center;">Page 57</p> <p>1 A Mm-hmm.</p> <p>2 Q ...do you know if he'd urinated or defecated himself?</p> <p>3 A Once he was sitting on the ground, yeah, I knew that</p> <p>4 it was -- yeah, he had urinated or defecated.</p> <p>5 Q Was he bleeding from any portion of his body?</p> <p>6 A I did not see any blood.</p> <p>7 Q Was he, at the moment he sat down or was put down on</p> <p>8 the ground, complaining of difficulty breathing?</p> <p>9 A I do not remember him complaining that he couldn't</p> <p>10 breathe.</p> <p>11 Q Was he calling out for help either to God or anybody?</p> <p>12 A I remember him once saying, asking, "Help me."</p> <p>13 Q When he was brought into PPS, was an expectorant</p> <p>14 shield immediately applied or was that done at some</p> <p>15 point later?</p> <p>16 A At some point later.</p> <p>17 Q And when you assisted with three other officers in</p> <p>18 carrying Mr. Perry into PPS, was he able to walk of</p> <p>19 his own accord?</p> <p>20 A No.</p> <p>21 Q Do you know if his head was down or up?</p> <p>22 A While we were carrying him?</p> <p>23 Q Yes.</p> <p>24 A He was face up. His head, I don't remember how his</p> <p>25 head was positioned while we were carrying him.</p>	<p style="text-align: center;">Page 59</p> <p>1 A I do not remember how his head was while we were</p> <p>2 carrying him.</p> <p>3 Q Do you know if he was conscious or unconscious?</p> <p>4 A It was the same as -- the same way. It never changed.</p> <p>5 Q It hadn't changed since sometime during the emergency</p> <p>6 room until you arrived at PPS, correct?</p> <p>7 A His condition was the same from when we left the</p> <p>8 hospital to when we arrived at PPS, the same where he</p> <p>9 was -- the same thing, where he could hear us but he</p> <p>10 couldn't give me a direct response.</p> <p>11 Q He's nonresponsive. Nonresponsive to verbal commands?</p> <p>12 A Correct.</p> <p>13 Q Nonresponsive to verbal inquiries?</p> <p>14 A Correct.</p> <p>15 Q Before he was placed in cell A3, did you hear any</p> <p>16 officers ask him, ask Mr. Perry if he needed medical</p> <p>17 assistance?</p> <p>18 A No.</p> <p>19 Q Did you hear any officers provide -- I'm sorry. Did</p> <p>20 you hear any officers offer medical assistance to Mr.</p> <p>21 Perry?</p> <p>22 A No.</p> <p>23 Q Did you hear any officers offer to remove Mr. Perry's</p> <p>24 clothing that had feces and urine on it?</p> <p>25 A No.</p>
<p style="text-align: center;">Page 58</p> <p>1 Q So his back was facing the ground?</p> <p>2 A Correct.</p> <p>3 Q And one officer was on each appendage: a leg, a leg,</p> <p>4 an arm, an arm?</p> <p>5 A Correct.</p> <p>6 Q And so was Mr. Perry able to hold his head up, or was</p> <p>7 it leaning towards the ground?</p> <p>8 A I don't know how his head was positioned while he was</p> <p>9 being carried to the cell.</p> <p>10 Q Did he appear conscious or unconscious at that time?</p> <p>11 I'm not talking about the cell.</p> <p>12 A Okay. This is while we're -- from when he's sitting</p> <p>13 on the ground to being -- before being placed in the</p> <p>14 cell.</p> <p>15 Q I'm glad you asked for clarification. I'm talking --</p> <p>16 I'm still at the elevator...</p> <p>17 A Okay.</p> <p>18 Q ...and going to the sitting position.</p> <p>19 A Okay.</p> <p>20 Q How was he carried from the elevator and deposited on</p> <p>21 the floor?</p> <p>22 A The same. An officer to each appendage.</p> <p>23 Q Okay. And do you know if his head was leaned back</p> <p>24 towards the ground, was he able to hold it up under</p> <p>25 his own power?</p>	<p style="text-align: center;">Page 60</p> <p>1 Q From the moment that you helped carry Mr. Perry into</p> <p>2 PPS until he was put on the floor of cell A3, did you</p> <p>3 hear any officers offer Mr. Perry comfort or</p> <p>4 reassurances?</p> <p>5 A No.</p> <p>6 Q Did you hear Lieutenant Robbins speak to Mr. Perry or</p> <p>7 yell at Mr. Perry?</p> <p>8 A No.</p> <p>9 Q Did you hear Officer Bungert tell -- or say anything</p> <p>10 to Mr. Perry?</p> <p>11 A I remember Officer Bungert asking him if he'd pooped</p> <p>12 his pants.</p> <p>13 Q And did Mr. Perry reply?</p> <p>14 A I can't remember if he replied or what he said.</p> <p>15 Q Did you hear Officer or see Officer Bungert apply a</p> <p>16 compression hold to Mr. Perry?</p> <p>17 A No.</p> <p>18 Q Did you hear Officer Kroes tell Mr. Perry, "If you're</p> <p>19 talking, you're breathing," or words to that effect?</p> <p>20 A No.</p> <p>21 Q Did you hear Mr. Perry complain of difficulty</p> <p>22 breathing?</p> <p>23 A I -- No, I do not remember hearing that.</p> <p>24 Q Did you become nauseous and vomit at some point?</p> <p>25 A After Mr. Perry was placed in the -- yes.</p>

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16 (Pages 61 to 64)

Page 61	Page 63
<p>1 Q After he was placed in cell A3?</p> <p>2 A Mm-hmm.</p> <p>3 Q Is that a yes?</p> <p>4 A Yes.</p> <p>5 Q And what caused your nausea and vomiting?</p> <p>6 A The smell of feces and Officer Kroes had sprayed Lysol</p> <p>7 all over his handcuffs.</p> <p>8 Q When you heard Mr. Perry call out for help, did you</p> <p>9 see anybody at PPS offer him help?</p> <p>10 A No.</p> <p>11 Q Before Mr. Perry was placed into cell A3, did you see</p> <p>12 him bleeding from anywhere on his body?</p> <p>13 A No.</p> <p>14 Q Did he have the expectorant shield on when he was</p> <p>15 placed into cell A3?</p> <p>16 A He did.</p> <p>17 Q He was cuffed at his arms and shackled at his legs?</p> <p>18 A I don't remember if he was shackled, but, yeah, he was</p> <p>19 still cuffed and he had the expectorant shield.</p> <p>20 Q Were you -- strike that. Are you aware of another</p> <p>21 inmate providing a statement to investigating</p> <p>22 detectives that Mr. Perry was dropped on his head</p> <p>23 before he went into cell A3?</p> <p>24 A I did hear something to that effect, but I don't -- I</p> <p>25 can't remember exactly how.</p>	<p>1 A Not thoroughly.</p> <p>2 Q Did Officer Kroes read them, if you know?</p> <p>3 A I do not know.</p> <p>4 Q Where was Officer Kroes when you handed the discharge</p> <p>5 instructions to Lieutenant Robbins?</p> <p>6 A I can't remember.</p> <p>7 Q Was he standing by your side?</p> <p>8 A I don't remember seeing him. I don't know where he</p> <p>9 was.</p> <p>10 Q Did you advise Officer Diaz-Berg that she should</p> <p>11 monitor Mr. Perry at any level based on the concerns</p> <p>12 you had dating back to your period with Mr. Perry in</p> <p>13 the emergency room?</p> <p>14 A I did not -- I did not tell her to specifically --</p> <p>15 that was her job for the day, so I don't under-- She</p> <p>16 would -- She should know. It doesn't matter. If</p> <p>17 she's assigned to keep an eye on prisoners, I</p> <p>18 shouldn't have to tell her to do that.</p> <p>19 Q Keep an eye on him?</p> <p>20 A Yeah.</p> <p>21 Q You didn't express any of your concerns to her about</p> <p>22 Mr. Perry's condition, correct?</p> <p>23 A Other than telling her that we came -- just came from</p> <p>24 the hospital.</p> <p>25 Q What did you observe of Mr. Perry before the cell door</p>
Page 62	Page 64
<p>1 Q Other than the inmate's report to the detective who</p> <p>2 was investigating Mr. Perry's death on the night in</p> <p>3 question, other than that inmate saying Mr. Perry was</p> <p>4 dropped on his head before he was put in cell A3, are</p> <p>5 you able to give me any information as to what other</p> <p>6 action may have caused Mr. Perry's blood that was</p> <p>7 found on his spit mask, on the expectorant shield?</p> <p>8 A No.</p> <p>9 Q Did you advise -- strike that. Do you know Officer</p> <p>10 Diaz-Berg?</p> <p>11 A Through work, yes.</p> <p>12 Q Did you know that she was assigned to monitoring</p> <p>13 inmates in the cells on the evening in question?</p> <p>14 A No.</p> <p>15 Q When you got to PPS, did you have any discussions with</p> <p>16 Lieutenant Robbins?</p> <p>17 A Other than giving him his discharge paperwork? That</p> <p>18 was it.</p> <p>19 Q When you provided Lieutenant Robbins Mr. Perry's</p> <p>20 discharge paperwork, did you advise Lieutenant Robbins</p> <p>21 of what Mr. Perry should be monitored or observed for</p> <p>22 while he remained at PPS?</p> <p>23 A I did not specific -- No, I did not tell him</p> <p>24 specifically what he should be monitored for.</p> <p>25 Q Did you read the discharge instructions?</p>	<p>1 to A3 was closed, if anything?</p> <p>2 A Just that he was starting -- there was spit coming out</p> <p>3 of his mouth.</p> <p>4 Q Through the expectorant shield?</p> <p>5 A No. While he was sitting on the -- well, while we had</p> <p>6 him sitting on the floor is when I started noticing</p> <p>7 like spit coming out.</p> <p>8 Q Was it bloody?</p> <p>9 A No.</p> <p>10 Q And when you say you noticed spit coming out, was that</p> <p>11 before the expectorant shield was put on?</p> <p>12 A Correct.</p> <p>13 Q And then once he was placed in the cell, the handcuffs</p> <p>14 were removed, right?</p> <p>15 A Correct.</p> <p>16 Q The leg shackles were removed, correct?</p> <p>17 A Everything was taken off.</p> <p>18 Q Do you specifically remember the expectorant shield</p> <p>19 being removed? Because -- let me tell you before you</p> <p>20 answer that question, and I'll go through the police</p> <p>21 reports -- every other officer says that the</p> <p>22 expectorant shield remained on.</p> <p>23 A I don't remember him being -- the shield being taken</p> <p>24 off.</p> <p>25 Q Okay. I'm going to show you what we've previously</p>

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17 (Pages 65 to 68)

<p style="text-align: center;">Page 65</p> <p>1 marked as Exhibit No. 34. Have you seen this document</p> <p>2 before? It's a statement taken of Tyrone Evans by one</p> <p>3 of the investigating detectives?</p> <p>4 A I was shown it, but I don't remember the specific</p> <p>5 details.</p> <p>6 Q On the second page of this exhibit, Tyrone Evans</p> <p>7 quotes or states, "Related once the officers got to</p> <p>8 the cell door, he observed the officer on the right</p> <p>9 side of the male dropped the male, causing him to fall</p> <p>10 on the face -- fall on the floor and hit his face."</p> <p>11 That's the first paragraph?</p> <p>12 A Okay.</p> <p>13 Q Do you specifically recall seeing this information</p> <p>14 before today?</p> <p>15 MS. LAPPEN: Objection as to form. Vague.</p> <p>16 But go ahead and answer.</p> <p>17 A I'm sorry. Can you rephrase that?</p> <p>18 BY MR. GENDE:</p> <p>19 Q Do you recall seeing this information before today?</p> <p>20 A I, yes, I did see this report, but like I -- some of</p> <p>21 the -- I don't remember the specific details.</p> <p>22 Q Did anybody question you as to whether or not Mr.</p> <p>23 Perry was dropped on his face before being put in the</p> <p>24 cell?</p> <p>25 A If someone -- If another prisoner is alleging that he</p>	<p style="text-align: center;">Page 67</p> <p>1 Q On the next page of Diaz-Berg's statement, the second</p> <p>2 paragraph from the top, "Diaz-Berg stated that a short</p> <p>3 time later Perry was taken out of his cell with his</p> <p>4 hands placed behind his back, handcuffed, ankle</p> <p>5 shackles, and the spit mask still on his face, being</p> <p>6 escorted from the cell by both arms." Do you have any</p> <p>7 reason to dispute that his spit mask was still on when</p> <p>8 he was removed from the cell?</p> <p>9 A I wasn't there when he was removed from the cell.</p> <p>10 Q So you would have no reason to dispute that statement</p> <p>11 by Officer Diaz-Berg?</p> <p>12 A I don't know what she saw. I wasn't there when he was</p> <p>13 taken out of the cell.</p> <p>14 Q I'm going to show you what we've marked as Exhibit No.</p> <p>15 30, statements of Milwaukee police officers given to</p> <p>16 investigating detectives, and I'd like you to look at</p> <p>17 the last page of that statement.</p> <p>18 A Okay.</p> <p>19 Q The detective notes, and we're looking at the second</p> <p>20 to last paragraph, "There was confusion of what cell</p> <p>21 to place Perry. For ten minutes, Perry was held by</p> <p>22 Kroes, Jacks, Bungert, Santiago, and Ayala." Do you</p> <p>23 recall that happening?</p> <p>24 A The -- I believe it really wasn't confusion. I think</p> <p>25 they were trying to figure out if they wanted to put</p>
<p style="text-align: center;">Page 66</p> <p>1 was dropped on -- a prisoner was dropped on his head,</p> <p>2 yeah, I would have been questioned about something</p> <p>3 like that.</p> <p>4 Q Do you recall being questioned?</p> <p>5 A No.</p> <p>6 Q I'm going to show you what we've marked as Exhibit No.</p> <p>7 36. This is more statements taken of Milwaukee police</p> <p>8 officers by investigating detectives, and on the</p> <p>9 second page, towards the bottom, Officer Diaz-Berg</p> <p>10 states, "That at this point, for Perry's safety, the</p> <p>11 decision was made to put Perry in cell A3 that has no</p> <p>12 bed and only a toilet for Perry's safety." Do you see</p> <p>13 where I read that, at the bottom of the page?</p> <p>14 A The last paragraph, or one up?</p> <p>15 Q Yeah. Correct. Diaz-Berg, "Stated that Perry had the</p> <p>16 handcuffs and ankle shackles taken off, but the spit</p> <p>17 mask was left on as Perry was placed into a cell."</p> <p>18 A Okay.</p> <p>19 Q Do you have any reason to dispute her recollection of</p> <p>20 that event?</p> <p>21 A When he was placed in his cell and we picked him up,</p> <p>22 put him in there, he still had the cuffs, the</p> <p>23 shackles, and the spit mask. I do not remember if the</p> <p>24 spit mask -- I don't remember if it remained on him or</p> <p>25 what they did with it after that.</p>	<p style="text-align: center;">Page 68</p> <p>1 him back in the male holding area or in a single cell.</p> <p>2 Q The investigating off-- or detective then notes, "They</p> <p>3 carried him upright to a cell. He was unhandcuffed,</p> <p>4 unshackled, and searched. Someone from PPS gave Kroes</p> <p>5 his handcuffs and told him to get out of the cell.</p> <p>6 Kroes departed the cell area. He heard the cell door</p> <p>7 shut." Any reason to dispute that only the handcuffs</p> <p>8 and leg shackles were removed when Mr. Perry was</p> <p>9 placed in cell A3?</p> <p>10 A No.</p> <p>11 Q Based on this information? Okay. I'm going to show</p> <p>12 you what we've marked as Exhibit No. 51. Do you know</p> <p>13 Officer Salinsky?</p> <p>14 A Yes.</p> <p>15 Q He gave a statement to investigating detectives, and</p> <p>16 I'd like you to look at, in the lower right-hand</p> <p>17 corner, there's a Bates stamp, it says 9465.</p> <p>18 A What page?</p> <p>19 Q 9465. Lower right-hand corner?</p> <p>20 A No. I'm asking you what page on here. Page....</p> <p>21 Q Page 3 of 4.</p> <p>22 A Oh.</p> <p>23 Q For Santiago's statement. So at the top it says,</p> <p>24 "Interview of Police Officer Frank Salinsky," and then</p> <p>25 about halfway down the fourth paragraph, I'll read to</p>

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18 (Pages 69 to 72)

<p style="text-align: center;">Page 69</p> <p>1 you, "Police Officer Salinsky stated that Perry, upon 2 his arrival, already had a spit mask on, but the spit 3 mask was on the back of his neck at the time he 4 arrived." Do you see where I'm reading? 5 A "...walking Perry..." Yes. 6 Q It continues, "Police Officer Salinsky stated that one 7 of the officers he believed to be Police Officer 8 Ayala, during the handcuffing, did put the spit mask 9 on properly in front in an attempt to keep Perry from 10 spitting at officers. Police Officer Salinsky stated 11 that officers then stood up Perry." 12 A What page -- I'm sorry. What -- 13 Q That was the next sentence. Do you see where I read 14 that? 15 A Unh-unh. I'm sorry. No. You're on page 4, or 3 of 16 4? 17 Q Three of four. 18 A Mm-hmm. 19 Q And I read into the record the sentence starting with, 20 "Police Officer Salinsky stated that Perry, upon his 21 arrival, already had a spit mask on." It's about 22 halfway down, three-quarters of the way down that 23 fourth paragraph. 24 MR. JONES: The big paragraph in the middle 25 of the page.</p>	<p style="text-align: center;">Page 71</p> <p>1 Q Okay. And now have you read the whole paragraph? 2 A No. 3 Q Okay. Let's take a moment to read it. We'll go off 4 the record. 5 THE REPORTER: Off the record. 6 (Off the record 12:12 - 12:13) 7 THE REPORTER: We're back on the record. 8 BY MR. GENDE: 9 Q Okay. Officer, now you've had a chance to read the 10 paragraph in full that I'm referring to, right? 11 A Correct. 12 Q Were you present when Mr. Perry was removed from A3? 13 A No. 14 Q Officer Salinsky, as part of his recitation of events, 15 states that when Mr. Perry was removed from A3, his 16 spit mask was still on, correct? 17 A According to this paragraph, yes. 18 Q But had to be repositioned so it would actually do the 19 job it was supposed to do, right? 20 A I wasn't there. I don't know what his -- I wasn't 21 there for -- for this part of this. I... 22 Q Do you have any information or evidence as we sit here 23 today that would contradict Officer Salinsky's 24 recitation that Mr. Perry still had his spit mask on 25 when he was being removed from cell A3?</p>
<p style="text-align: center;">Page 70</p> <p>1 A Oh. Here we go. "...stated that when he 2 arrived...did show him...Perry was walked." 3 MR. GENDE: Let's go off the record for a 4 moment. 5 THE WITNESS: Okay. 6 THE REPORTER: Off the record. 7 (Off the record 12:11 - 12:11) 8 THE REPORTER: We're back on the record. 9 BY MR. GENDE: 10 Q Okay. Officer, we took a moment for you to review the 11 paragraph that I'm referring to, and you would agree 12 that this is Officer Salinsky's recitation of what 13 happened when they went to remove Perry from cell A3, 14 correct? 15 MS. LAPPEN: And just for clarification, you 16 had her start about three-quarters of the way 17 into the paragraph, so I don't think she read the 18 whole paragraph. I think she just read from 19 where you told her to start, so.... 20 BY MR. GENDE: 21 Q Yeah. That's why we went off the record so you could 22 look at the whole thing. 23 A You pointed out this part. 24 Q Yes. 25 A Towards the bottom. That's what I read.</p>	<p style="text-align: center;">Page 72</p> <p>1 A No. 2 (Exhibit 76 identified) 3 Q I'm going to show you what we've marked as Exhibit No. 4 76, which are policies and procedures as it relates to 5 prisoners, specifically SOP 090, effective May 19th, 6 2010. Do you see that at the top? 7 A Yes. 8 Q Were you trained on these policies and procedures as 9 of September 2010? 10 A Yes. 11 MS. LAPPEN: Is one of these an extra copy 12 for me? 13 MR. GENDE: There might be an extra copy 14 attached. 15 MS. LAPPEN: Yeah. Could you hand me that 16 one. I could read it with you. 17 MR. GENDE: There you go. 18 MS. LAPPEN: Thank you. 19 BY MR. GENDE: 20 Q Under "Purpose," this SOP states, "To identify the 21 department's responsibilities and procedures as it 22 relates to prisoners and the processing of persons in 23 custody," right? 24 A Correct. 25 Q And this policy and procedure is something that's</p>

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19 (Pages 73 to 76)

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<p>1 mandatory. Officers don't have the discretion to 2 ignore this, true? 3 A Correct. 4 Q So what this policy says is what you are required to 5 do as an officer as it relates to prisoners, right? 6 A Correct. 7 Q And there's a section on treatment of prisoners, and 8 then it talks about physical restraint of prisoners, 9 correct? 10 A Correct. 11 Q And there are multiple ways a prisoner can be 12 physically restrained, true? 13 A Correct. 14 Q Sets forth several paragraphs as you go onto the next 15 page about restraints, right? 16 A Correct. 17 Q One way to restrain a prisoner is through flexicuffs, 18 right? 19 A Correct. 20 Q Another way is leg irons, right? 21 A Correct. 22 Q Another way is a bodyguard restraint system, right? 23 A They don't use that anymore. 24 Q Well, at least as of September 2010, it was a 25 bodyguard restraint, right?</p>	<p>1 Q But the expectorant shield remained on, right? 2 A I don't remember the expectorant shield being taken 3 off or what exactly what was done with it. 4 Q I understand you may not recall, but I took the time 5 -- 6 A It would be the expectation, yes. They should have 7 take all that stuff out. 8 Q Okay. But I'm not -- 9 A Off. 10 Q I'm not asking if they should have taken it off. 11 A Okay. 12 Q I'm asking, by the other officers' accounts -- 13 A Mm-hmm. 14 Q -- the expectorant shield remained on, and you told me 15 you had no reason to dispute that as we sit here 16 today, true? 17 A Mm-hmm. 18 Q Is that a yes? 19 A True. 20 Q All right. And the expectorant shield would be a type 21 of physical restraint, true? 22 A True. 23 Q So under "Precautions for Physical Restraints," it 24 says, "One, all persons in restraints of any kind 25 shall be continually monitored," true?</p>
Page 74	Page 76
<p>1 A Correct. 2 Q And finally, an expectorant shield, true? 3 A Correct. 4 Q And these can be used individually as a restraint or 5 they can be combined, right? 6 A Correct. 7 Q And then there's a paragraph that talks about 8 precautions when physical restraints are being used, 9 right? 10 A Correct. 11 Q And you would agree that Mr. Perry, while at PPS, was 12 physically restrained with handcuffs at one point? 13 A Yes. 14 Q With leg irons at one point? 15 A Yes. 16 Q With an expectorant shield at one point, right? 17 A Yes. 18 Q And then at one point, he had all those on, true? 19 A Correct. 20 Q And then once he was placed in cell A3, by the 21 accounts that I've read into the record of other 22 police officers, the handcuffs were removed, right? 23 A Yes. 24 Q The leg irons were removed, correct? 25 A Yes.</p>	<p>1 A Correct. 2 Q Did you continually monitor Mr. Perry once he was 3 placed in cell A3 and continued to have an expectorant 4 shield on? 5 A No. 6 Q Did you advise any other officers, first of all, based 7 on your concerns regarding his condition upon release 8 from the emergency room, and secondly the fact that he 9 continued to have an expectorant shield on, that they 10 needed to continually monitor Mr. Perry while he was 11 in cell A3? 12 A Did I specifically tell them that he needed to be 13 monitored while he was in cell 3? 14 Q Yes. 15 A No. 16 Q Did you hear Lieutenant Robbins or any other officer 17 take a position that Mr. Perry should be continually 18 monitored while he continued to physically restrained 19 by a expectorant shield? 20 A No. 21 Q Under paragraph 2 on the third page it states, 22 "Members shall remain cognizant of any changes in the 23 condition of an arrestee that would require medical 24 treatment." Is that true? 25 A Correct.</p>

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20 (Pages 77 to 80)

<p style="text-align: center;">Page 77</p> <p>1 Q Is that optional for police officers?</p> <p>2 A No.</p> <p>3 Q That's a requirement, right?</p> <p>4 A Yes.</p> <p>5 Q "If medical treatment becomes necessary, member shall</p> <p>6 immediately request medical assistance by telephone or</p> <p>7 radio," right?</p> <p>8 A Correct.</p> <p>9 Q Is that optional or a requirement?</p> <p>10 A A requirement.</p> <p>11 Q You don't have any discretion into whether or not you</p> <p>12 follow that instruction.</p> <p>13 A Correct.</p> <p>14 Q It goes on to say, "It cannot be overemphasized that</p> <p>15 members shall continually monitor and remain cognizant</p> <p>16 of the condition of a person in custody, especially</p> <p>17 when he or she is in restraints," right?</p> <p>18 A Correct.</p> <p>19 Q That is a requirement. It's not discretionary for</p> <p>20 police officers. True?</p> <p>21 A Correct.</p> <p>22 Q It goes on to state, "The arrestee may encounter</p> <p>23 immediate or delayed physical reactions that may be</p> <p>24 triggered by the change in physical or environmental</p> <p>25 factors; therefore caution and awareness on the part</p>	<p style="text-align: center;">Page 79</p> <p>1 A Yes.</p> <p>2 Q I appreciate your being candid; however, my question</p> <p>3 remains. The policy and procedure that we have just</p> <p>4 read into the record --</p> <p>5 A Mm-hmm.</p> <p>6 Q -- regarding constantly monitoring a prisoner --</p> <p>7 A Okay.</p> <p>8 Q -- in physical restraints, specifically paragraph</p> <p>9 number 2 that I went sentence by sentence by.</p> <p>10 A Okay.</p> <p>11 Q My question to you is, as we sit here today --</p> <p>12 A Mm-hmm.</p> <p>13 Q -- is there any reason that you can think of why this</p> <p>14 would not have applied to Mr. Perry on the evening in</p> <p>15 question while he was at PPS?</p> <p>16 A Because he just came from treatment in the hospital.</p> <p>17 Q So he should not have been constantly monitored?</p> <p>18 A He should have been constantly monitored regardless.</p> <p>19 Q Now I understand what you're saying. So even if he</p> <p>20 wasn't in physical restraints, it's your opinion that,</p> <p>21 based on his release from the hospital, he should have</p> <p>22 been constantly monitored for any condition change,</p> <p>23 right?</p> <p>24 A Correct.</p> <p>25 Q In the event there was a condition change, you believe</p>
<p style="text-align: center;">Page 78</p> <p>1 of the officer is constantly required," true?</p> <p>2 A True.</p> <p>3 Q The "caution and awareness on the part of the officers</p> <p>4 constantly requires" -- "required" means it's not</p> <p>5 discretionary. You must remain constantly cautious</p> <p>6 and aware of a prisoner in physical restraints, true?</p> <p>7 A Correct.</p> <p>8 Q Any reason why that didn't apply to Mr. Perry on the</p> <p>9 evening in question?</p> <p>10 A At what point?</p> <p>11 Q At any point in time when he returned from PPS.</p> <p>12 A Okay.</p> <p>13 Q Would there be any reason why this policy and</p> <p>14 procedure did not apply to Mr. Perry?</p> <p>15 A I didn't say that it didn't.</p> <p>16 Q I'm just asking you if you can think of any reason as</p> <p>17 we sit here today why that would not apply to Mr.</p> <p>18 Perry after he was returned to PPS.</p> <p>19 A Mr. Perry just came from the hospital, so it was</p> <p>20 expected that he -- his condition never changed.</p> <p>21 Given that, I mean, everybody knew that was involved</p> <p>22 that he had just came from the hospital. At any</p> <p>23 point, an officer could have if they -- take him back,</p> <p>24 take him back to the hospital, they could have.</p> <p>25 Q Including yourself.</p>	<p style="text-align: center;">Page 80</p> <p>1 police training was anybody could have called for</p> <p>2 medical assistance or taken him to a hospital, right?</p> <p>3 A Correct.</p> <p>4 Q The fact that he remained in physical restraints and</p> <p>5 based on this SOP that he should be constantly</p> <p>6 monitored, you would agree that applied to Mr. Perry</p> <p>7 on the evening in question.</p> <p>8 MS. LAPPEN: Objection as to the form of the</p> <p>9 question. It's multiple and vague.</p> <p>10 But go ahead and answer.</p> <p>11 A Mr. Perry should have been constantly monitored.</p> <p>12 BY MR. GENDE:</p> <p>13 Q Do you have any evidence or information as we sit here</p> <p>14 today when Mr. Perry started bleeding from any part of</p> <p>15 his body?</p> <p>16 A I did not see Mr. Perry bleeding from any part of his</p> <p>17 body.</p> <p>18 Q And that was at the moment he was placed into cell A3</p> <p>19 and --</p> <p>20 A I did not see.</p> <p>21 Q -- the door was closed, right?</p> <p>22 A I never seen any blood.</p> <p>23 Q And the last contact you had with Mr. Perry was after</p> <p>24 he was placed on the floor of cell A3, correct?</p> <p>25 A Correct.</p>

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21 (Pages 81 to 84)

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<p>1 Q How was Mr. Perry placed on the cell, of A3? Strike 2 that. How was Mr. Perry placed on the floor of cell 3 A3? 4 A We carried him. 5 Q And was he placed face down, on his back? How would 6 you describe it? 7 A The same way before. We even took him in there on -- 8 he was sitting on his butt with his legs extending 9 outward. 10 Q Did you ever -- strike that. Were you ever provided 11 any information that when Mr. Perry was removed from 12 the cell, a city janitor found gobs of spit, blood, 13 and feces in the spot where he was laying? 14 A Nobody had -- has specifically told me that, no. 15 Q Did you become aware of that at some point in time 16 after Mr. Perry passed away, that in the area where he 17 was laying in cell A3 was covered in spit, blood, and 18 feces? 19 A No. 20 Q Was Mr. Perry covered in spit, blood, and feces when 21 you saw him placed into cell A3? 22 A Mr. Perry, there was spit coming out of his mouth; I 23 didn't see any blood. His pants were wet, and I 24 didn't -- one could -- his pants were wet, so yes, he 25 probably did urinate or defecate himself. But I</p>	<p>1 process? 2 A I did not specifically ask how that happened. 3 Q So you did not know whether Mr. Perry voluntarily 4 soiled himself or it happened as a result of an 5 involuntary process, correct? 6 A Correct. 7 Q And you made no effort to distinguish between those 8 two while you were in contact with Mr. Perry. 9 A Correct. 10 Q Did you hear any other officers attempt to determine 11 with Mr. Perry whether he had voluntarily soiled 12 himself or that process had occurred as a result of 13 some involuntary action? 14 A Are you asking me if any other officers asked him how 15 that happened? 16 Q Yes. 17 A Or -- No. 18 Q Are you aware of any other officers taking any steps 19 to distinguish whether Mr. Perry had voluntarily 20 urinated and defecated on himself or whether that 21 occurred as a result of some involuntary process? 22 A No. 23 Q If a prisoner complains of difficulty breathing and 24 actually has difficulty breathing, you would consider 25 that a change in condition, true?</p>
Page 82	Page 84
<p>1 wouldn't -- "covered." When I think of "covered," 2 your entire body. No, I did not see feces from head 3 to toe or blood. 4 Q You would agree that a prisoner can suffer from a 5 change in condition if he goes from not bleeding to 6 bleeding, right? 7 A Do I consider that to be a change? Yes, I do. 8 Q You would consider a change in condition on a prisoner 9 somebody who hasn't soiled himself to somebody who has 10 soiled himself, correct? 11 MS. LAPPEN: Objection as to form. 12 But go ahead and answer. 13 BY MR. GENDE: 14 Q That's a change in condition, is it not? 15 A It -- Yes, it is. 16 Q What effort did you make, if any, to determine whether 17 or not Mr. Perry voluntarily urinated and defecated on 18 himself or it happened as a result of an involuntary 19 process? 20 A Can you repeat that? 21 Q Sure. What effort, if any, did you make to determine 22 whether Mr. Perry intended and voluntarily urinated 23 and defecated on himself after he returned to PPS -- 24 A Well, I didn't ask him if he -- 25 Q -- or it occurred as a result of some involuntary</p>	<p>1 A Correct. 2 Q As we sit here today, are you aware -- and if I 3 already asked you this, I apologize -- as to when Mr. 4 Perry's condition changed as it relates to the 5 bleeding process that was subsequently identified when 6 he was removed from the cell? 7 A I did not -- I didn't see any blood. I didn't know 8 anything about blood. 9 Q If we can go back to Exhibit Number -- 10 A This one says 76. 11 Q -- 76, and in the event that Mr. Perry was not 12 continually monitored after he was placed in cell A3 13 with an expectorant shield applied to him, why he was 14 not continuously monitored? 15 MS. LAPPEN: Objection as to form and -- 16 BY MR. GENDE: 17 Q Do you understand my question? 18 MS. LAPPEN: -- calls for speculation. 19 A I don't know what steps were taken after I -- to 20 monitor him. I wasn't -- I don't know what they -- 21 after I left, I don't know what they specifically did 22 to monitor him. 23 BY MR. GENDE: 24 Q Well, I will represent to you that I took Officer 25 Diaz-Berg's deposition several weeks ago.</p>

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22 (Pages 85 to 88)

Page 85	Page 87
<p>1 A Okay.</p> <p>2 Q And she told me on the record that she made four cell</p> <p>3 checks an hour.</p> <p>4 A Okay.</p> <p>5 Q Staggered at 15-minute intervals, give or take. Okay?</p> <p>6 A Okay.</p> <p>7 Q Does that sound like continual monitoring to you?</p> <p>8 MS. LAPPEN: Objection. Foundation and it</p> <p>9 calls for speculation.</p> <p>10 But go ahead and answer.</p> <p>11 A It sounds like monitoring to me. I don't know what</p> <p>12 their -- how PPS, what they consider as monitoring. I</p> <p>13 don't work up there. I don't know what they do to --</p> <p>14 up there to monitor prisoners.</p> <p>15 BY MR. GENDE:</p> <p>16 Q Well, you know what "continually monitoring" is</p> <p>17 because you did it with Mr. Perry over a period of</p> <p>18 several hours, true?</p> <p>19 A Correct.</p> <p>20 Q You stood by his side from almost the moment he got</p> <p>21 into the emergency room until he was placed on the</p> <p>22 floor of cell A3, correct?</p> <p>23 A Yes.</p> <p>24 Q Other than leaving his side for several minutes to get</p> <p>25 something to drink and while another officer remained</p>	<p>1 entire time, right?</p> <p>2 A Yes.</p> <p>3 Q And based on your observations, you were very</p> <p>4 concerned about his deteriorating condition, right?</p> <p>5 A I didn't say it was deteriorating.</p> <p>6 Q Well, it had deteriorated from the moment you brought</p> <p>7 him there, to the emergency room, to the moment he was</p> <p>8 discharged, right?</p> <p>9 A I didn't -- I said his -- it was different.</p> <p>10 Q Well, he was better or worse when he was discharged</p> <p>11 now?</p> <p>12 A His condition never -- from the time that he was</p> <p>13 discharged to the time that he got to PPS, it didn't</p> <p>14 change. It was the same with the not being able to</p> <p>15 directly give us a response. The only thing that</p> <p>16 changed was the -- when he was sitting on the floor</p> <p>17 and saliva started coming out.</p> <p>18 Q That's not my question. I'm talking about the</p> <p>19 approximately three hours you spent with Mr. Perry at</p> <p>20 the emergency room, right?</p> <p>21 A Uh-huh. Yes.</p> <p>22 Q And we went over that in detail --</p> <p>23 A Okay.</p> <p>24 Q -- at the start of your deposition, correct?</p> <p>25 A Correct.</p>
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<p>1 in his presence, you continually monitored Mr. Perry,</p> <p>2 right?</p> <p>3 A Yes, I did.</p> <p>4 Q You didn't come back every 15 minutes in a staggered</p> <p>5 approach to see whether he was getting better or</p> <p>6 worse, right?</p> <p>7 A No.</p> <p>8 Q So based on your prior testimony, you know what</p> <p>9 "continually monitoring" means because you told me you</p> <p>10 did it, right?</p> <p>11 A It's --</p> <p>12 MS. LAPPEN: Objection.</p> <p>13 A -- different from mon--</p> <p>14 MS. LAPPEN: Objection to the form of the</p> <p>15 question, and it's argumentative, and it lacks</p> <p>16 foundation. It calls for speculation as well.</p> <p>17 But go ahead.</p> <p>18 A The way that I monitor Mr. Perry is different from the</p> <p>19 way Officer Diaz-Berg monitored him.</p> <p>20 BY MR. GENDE:</p> <p>21 Q Yeah. We understand that. But I'm talking to you</p> <p>22 right now about your continual monitoring of Mr.</p> <p>23 Perry, right? You continually monitored him, right?</p> <p>24 A I was physically in his presence, yes.</p> <p>25 Q And you observed him carefully and closely during that</p>	<p>1 Q And we established that when you took Mr. Perry there,</p> <p>2 he seemed normal, right? And I'm talking about the</p> <p>3 emergency room.</p> <p>4 A From the outside, yes.</p> <p>5 Q And when Mr. Perry left the emergency room, you were</p> <p>6 very concerned about his condition to the extent where</p> <p>7 you questioned the doctor about him being discharged,</p> <p>8 right?</p> <p>9 A Did I question the -- yes, I did ask the doctor what</p> <p>10 -- what they did.</p> <p>11 Q And you asked because you were very concerned about</p> <p>12 what appeared to you as a deterioration of Mr. Perry's</p> <p>13 condition while he was at --</p> <p>14 A I didn't say it was deteriorating. I asked the doctor</p> <p>15 to explain to me what they gave him, why -- and why</p> <p>16 was condition -- his condition different from the time</p> <p>17 when he first got there.</p> <p>18 Q Different as in better or worse?</p> <p>19 A Bizarre.</p> <p>20 Q Bizarre in a good way? He was happy and able to walk</p> <p>21 on his own and communicating --</p> <p>22 A Bizarre that I have never seen someone, that type of</p> <p>23 reaction.</p> <p>24 Q That type of reaction from what? Three seizures?</p> <p>25 A I've never seen anybody in a state like his eyes</p>

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23 (Pages 89 to 92)

<p style="text-align: center;">Page 89</p> <p>1 weren't closed but he could still hear us. He wasn't</p> <p>2 totally unconscious where -- I've just never seen</p> <p>3 anything like that before.</p> <p>4 Q Well, I thought --</p> <p>5 A He was in the middle --</p> <p>6 Q I thought we established that you were concerned</p> <p>7 because Mr. Perry got worse at the emergency room. Am</p> <p>8 I incorrect?</p> <p>9 A I didn't say he was worse.</p> <p>10 Q So --</p> <p>11 A I said it was different.</p> <p>12 Q And you were concerned because he was different? That</p> <p>13 was your concern?</p> <p>14 A I'm expecting when he leaves the hospital, he should</p> <p>15 be better.</p> <p>16 Q And was he better when he left the hospital?</p> <p>17 A It wasn't the same as when he came in.</p> <p>18 Q He wasn't able to walk.</p> <p>19 A He didn't fully -- He wasn't fully walking on his own.</p> <p>20 He needed assistance.</p> <p>21 Q Just so the record is clear because I'm confused based</p> <p>22 on your earlier testimony, did you think Mr. Perry got</p> <p>23 better while he was at the emergency room, or were you</p> <p>24 concerned upon discharge that he was worse?</p> <p>25 A His condition was -- I expected Mr. Perry, that he</p>	<p style="text-align: center;">Page 91</p> <p>1 A It's different because, at that point, my assignment</p> <p>2 is just to strictly monitor Mr. Perry at that time. I</p> <p>3 don't work up at PPS. I don't know how many, the time</p> <p>4 frame. I don't know how many checks they're supposed</p> <p>5 to do. I don't know -- I don't know if they</p> <p>6 physically are supposed to sit in there with the</p> <p>7 prisoners. I....</p> <p>8 Q Well, let me ask you this. Look at 090 that we've</p> <p>9 talked about --</p> <p>10 A Okay.</p> <p>11 Q -- at length now and tell me where it says continually</p> <p>12 monitoring only pertains to PPS. Where does that say</p> <p>13 that in this --</p> <p>14 A Prisoners need to be monitored at all times.</p> <p>15 Q I'm asking you to look at your required policies and</p> <p>16 procedures --</p> <p>17 A Mm-hmm.</p> <p>18 Q -- and tell me where it says that this continually</p> <p>19 monitoring requirement only happens at PPS.</p> <p>20 A It doesn't say it's only supposed to happen at PPS.</p> <p>21 Q As a matter of fact, if somebody is physically</p> <p>22 restrained, including the use of an expectorant</p> <p>23 shield, that person "shall be continually monitored,"</p> <p>24 right?</p> <p>25 A Yep.</p>
<p style="text-align: center;">Page 90</p> <p>1 should have been the same condition as when we</p> <p>2 arrived.</p> <p>3 Q And was he?</p> <p>4 A No.</p> <p>5 Q And based on what you observed by closely and</p> <p>6 constantly monitoring him at the emergency room, you</p> <p>7 were concerned at discharge and raised those concerns</p> <p>8 with the doctor, right?</p> <p>9 A Yes, I did.</p> <p>10 Q "Continually monitoring" to you means what?</p> <p>11 A It means I was pretty much sitting right next to him</p> <p>12 through the whole time he was at the hospital.</p> <p>13 Q As a police officer and based on these standard</p> <p>14 operating procedures that we've read into the record,</p> <p>15 do you have any reason to tell me that continually</p> <p>16 monitoring the way you continually monitored is any</p> <p>17 different from the continually monitoring that's set</p> <p>18 forth in these policies and procedures?</p> <p>19 A Because it was two different environments.</p> <p>20 Q So tell me how continually monitoring at PPS is</p> <p>21 different than continually monitoring that you did</p> <p>22 while at the emergency room, while in the vehicle</p> <p>23 bringing Mr. Perry back, while assisting in bringing</p> <p>24 Mr. Perry up in the elevator, and setting him on the</p> <p>25 floor at PPS.</p>	<p style="text-align: center;">Page 92</p> <p>1 Q And continually monitored, whether it's in PPS, in the</p> <p>2 emergency room, or the back of a squad car, are you</p> <p>3 telling me that those are different?</p> <p>4 A It's two different places so, yes, it is different.</p> <p>5 Q So you would continually monitor somebody in an</p> <p>6 emergency room differently than you would continually</p> <p>7 monitor somebody in the back of your car, or back of</p> <p>8 your squad?</p> <p>9 A It's different as -- the way that I monitored him at</p> <p>10 the hospital is different from the way Officer Diaz-</p> <p>11 Berg monitored him at PPS.</p> <p>12 Q I understand that.</p> <p>13 A Okay.</p> <p>14 Q Because she told us she did 15-minute shifts.</p> <p>15 A Okay. But I didn't do 15-minute shifts.</p> <p>16 Q You continually monitor.</p> <p>17 A I stayed with him.</p> <p>18 Q Meaning what? You did or didn't continually monitor</p> <p>19 him?</p> <p>20 A I was in his presence the whole time we went to the</p> <p>21 hospital.</p> <p>22 Q Do you feel that you fulfill -- Do you feel that you</p> <p>23 fulfilled the requirements of standard operating</p> <p>24 procedure 090?</p> <p>25 A Yes, I do.</p>

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24 (Pages 93 to 96)

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<p>1 Q So you feel that you continually monitored him while</p> <p>2 he was in your custody and physical restraints were</p> <p>3 being used.</p> <p>4 A I-- From up until the point, yes, the original</p> <p>5 assignment, to after he was placed in the cell, no, I</p> <p>6 didn't stay with him after he was placed in the cell.</p> <p>7 Q But up until that point in time, you fulfilled the</p> <p>8 requirements of SOP 090 and continually monitored him,</p> <p>9 true?</p> <p>10 A Yes, I did.</p> <p>11 Q Do you know if after you left Mr. Perry in the cell of</p> <p>12 A3 that he continued to be continually monitored by</p> <p>13 anybody in accord with this policy and procedure?</p> <p>14 MS. LAPPEN: Objection. Foundation and it</p> <p>15 calls for speculation.</p> <p>16 But go ahead and answer.</p> <p>17 A I don't know what they did for Mr. Perry after I left.</p> <p>18 BY MR. GENDE:</p> <p>19 Q Do you have any evidence or information as we sit here</p> <p>20 today that Mr. Perry was continually monitored after</p> <p>21 you placed him on the cell floor of A3?</p> <p>22 MS. LAPPEN: Same objections.</p> <p>23 But go ahead and answer.</p> <p>24 A I don't know what they did for him after I left. I</p> <p>25 don't know how they monitored him or what was done</p>	<p>1 who had told me. I thought that he was -- I didn't</p> <p>2 believe him when he had told me.</p> <p>3 Q Did you have further conversation with Officer Bungert</p> <p>4 about Mr. Perry's death?</p> <p>5 A No.</p> <p>6 Q Did you discuss it with Officer Krowz -- Kroes</p> <p>7 [Kruiz]?</p> <p>8 A He was sitting right there. He heard the</p> <p>9 conversation. And then I called Lieutenant Robbins.</p> <p>10 Q And what did you say to him?</p> <p>11 A I asked him what had happened.</p> <p>12 Q And what did Lieutenant Robbins tell you?</p> <p>13 A That Mister -- yes, Mr. Perry had passed away.</p> <p>14 Q And what did you talk to Officer Kroes about then at</p> <p>15 that point as it relates to Mr. Perry?</p> <p>16 A There really -- nothing. There was -- They were</p> <p>17 trying to dispatch us to another assignment, but I</p> <p>18 already knew that we were going to need to go back to</p> <p>19 the District regarding this assignment.</p> <p>20 Q What was your reaction to the news that Mr. Perry had</p> <p>21 passed away shortly after leaving PPS, other than</p> <p>22 disbelief?</p> <p>23 A I was mad and upset.</p> <p>24 Q You were mad about what?</p> <p>25 A That Mr. Perry had passed away.</p>
Page 94	Page 96
<p>1 with him.</p> <p>2 BY MR. GENDE:</p> <p>3 Q So the simple answer to my question is, no, you have</p> <p>4 no evidence or information as we sit here today that</p> <p>5 Mr. Perry was continually monitored while he remained</p> <p>6 in a physical restraint after being placed in cell A3,</p> <p>7 true?</p> <p>8 MS. LAPPEN: Same --</p> <p>9 A Correct.</p> <p>10 MS. LAPPEN: Same objection and form of the</p> <p>11 question.</p> <p>12 BY MR. GENDE:</p> <p>13 Q How were you advised that Mr. Perry had passed away?</p> <p>14 Who told you?</p> <p>15 A How it came about is after me and Officer Kroes had</p> <p>16 left the building, we were probably three or four</p> <p>17 blocks away, on the radio I heard a request for</p> <p>18 another conveyance from -- for a male prisoner from</p> <p>19 PPS to CJF. I felt that that particular, when I heard</p> <p>20 it, that assignment, I was thinking, I looked at</p> <p>21 Officer Kroes and I felt that was probably our same</p> <p>22 prisoner. Officer Bungert is the one that had told me</p> <p>23 he had passed away.</p> <p>24 Q And what did Officer Bungert tell you?</p> <p>25 A He didn't go into specific detail, but he was the one</p>	<p>1 Q And you were upset about what?</p> <p>2 A Because Mr. Perry passed away.</p> <p>3 Q Who were you mad and upset with that Mr. Perry had</p> <p>4 passed away?</p> <p>5 A There was -- there wasn't a particular one person that</p> <p>6 I could say was responsible for him passing away.</p> <p>7 Q Did you reflect on the events of the evening and the</p> <p>8 hours that you had spent with Mr. Perry on the evening</p> <p>9 he died about what could have been done differently to</p> <p>10 change that course of events?</p> <p>11 MS. LAPPEN: Objection. It calls for</p> <p>12 speculation.</p> <p>13 But go ahead and answer.</p> <p>14 A You're asking me if I thought about what I could have</p> <p>15 done differently to prevent this outcome?</p> <p>16 BY MR. GENDE:</p> <p>17 Q I'm not asking about what you would have done</p> <p>18 differently. I'm asking in general if you reflected</p> <p>19 on the events of the evening and the hours that you</p> <p>20 spent with Mr. Perry prior to his death what could</p> <p>21 have been done differently to change that course of</p> <p>22 events?</p> <p>23 MS. LAPPEN: Same objection. It calls for</p> <p>24 speculation, and foundation as well.</p> <p>25 But go ahead and answer.</p>

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25 (Pages 97 to 100)

<p style="text-align: center;">Page 97</p> <p>1 A I don't know what could have been done differently to 2 prevent that. 3 BY MR. GENDE: 4 Q So when you reflected back on your participation -- 5 A Okay. 6 Q -- in monitoring Mr. Perry on the evening in question, 7 it's your opinion that there is no action you could 8 have taken that would have resulted in some different 9 ending for Mr. Perry? 10 MS. LAPPEN: Same objections. 11 Go ahead and answer. 12 A I don't know what else I could have done differently. 13 I haven't been -- If a prisoner is injured or sick in 14 any type of way, we've been trained to took him -- to 15 take them to the hospital, which is what I did. 16 BY MR. GENDE: 17 Q Could you have expressed your concerns about Mr. 18 Perry's condition to any of the officers at PPS once 19 Mr. Perry was returned? 20 MS. LAPPEN: Same objections. 21 But go ahead and answer. 22 A I'm -- Repeat that? 23 BY MR. GENDE: 24 Q Could you have expressed your concerns about Mr. 25 Perry's condition upon discharge to any of the</p>	<p style="text-align: center;">Page 99</p> <p>1 Exhibit No. 77. This is a statement that you provided 2 to the investigating detective when Mr. Perry passed 3 away. You reviewed this statement in preparation for 4 your deposition, correct? 5 A Yes. 6 Q Did you find any information contained therein to be 7 inaccurate or untruthful? 8 A I did not. There were some parts of this as of the 9 statement that I didn't remember, things that had 10 happened that I didn't remember. 11 Q And when you reviewed the statement, did it help 12 refresh your recollection as it relates to those 13 things that you previously did not remember? 14 A No. Even after I read it, there were still some parts 15 of my statement that I do not remember. 16 Q What parts in this statement do you not remember 17 occurring? 18 A There -- I -- 19 MS. LAPPEN: Why don't you start from the 20 beginning and go through it? 21 THE WITNESS: Okay. 22 A I couldn't remember what he was arrested for. I did 23 not remember where I -- it says him becoming very 24 quiet and then yelled out, "Hey." 25 I did not remember a nurse coming in to --</p>
<p style="text-align: center;">Page 98</p> <p>1 officers at PPS when Mr. Perry was returned? 2 A Are you asking about how the -- his treatment at the 3 hospital, could I have told them what I thought 4 personally, or... 5 Q No. I'm asking you -- you testified that you were 6 concerned enough to talk to the doctor -- 7 A Yes, I did. 8 Q -- upon Mr. Perry's discharge. 9 A Yes, I did. 10 Q You didn't think he should be discharged, right? 11 A I -- No. 12 Q What prevented you from expressing those concerns to 13 any officers at PPS when you returned Mr. Perry there? 14 A There was nothing that prevented me. 15 Q What prevented you from reading Mr. Perry's discharge 16 instructions that would require he get immediate 17 medical attention in the event certain things occurred 18 with him? 19 A If Mr. Perry would have asked me to read his discharge 20 papers to him, I would have. 21 Q Was Mr. Perry responsive to any of your inquiries once 22 he left the emergency room? 23 A No. 24 (Exhibit 77 identified) 25 Q I'm going to show you what we've just marked as</p>	<p style="text-align: center;">Page 100</p> <p>1 rubbing his chest to get up to go to the bathroom. 2 Some parts of the conveyance part, I couldn't 3 remember if we -- if me and Officer Kroes had -- if he 4 was taken back to PPS in our squad car or from -- or a 5 wagon. 6 BY MR. GENDE: 7 Q Any other areas? 8 A No. 9 Q At the bottom of page 2 of your statement, the 10 detective documented you stating, "That Perry was 11 carried face up during the time they were transporting 12 him to the cell." Were you asked by the detective how 13 Mr. Perry was carried, or did you just provide that 14 information voluntarily? 15 A I was asked specifically how -- Yes, he asked me 16 specifically how he was carried. 17 Q And then the detective goes on to relate that -- I'm 18 sorry. In the sentence before, you related that "As 19 he was carried to the cell, he was still in handcuffs 20 and shackles. Perry was never dropped by anyone." Do 21 you see where I read that? 22 A Towards the bottom of page 2? 23 Q Yes. 24 A Correct. 25 Q Did the detective inquire as to whether or not Mr.</p>

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<p style="text-align: center;">Page 101</p> <p>1 Perry was dropped, or did you voluntarily relay that 2 information? 3 A I don't remember. 4 Q And I'm almost done. Did you ever tell anyone that 5 you thought Mr. Perry was faking his condition? 6 A No. 7 Q Was any follow-up interview done after you provided 8 the information contained in Exhibit No. 77? 9 A Are you asking me if I was interviewed again after 10 this original statement? 11 Q Yes. 12 A No. 13 Q Were you ever interviewed as it relates to statements 14 Lieutenant Robbins -- 15 A Yes. 16 Q -- made? And what do you recall about that interview 17 process? 18 A I was -- they had asked me if I heard a particular 19 comment that Lieutenant Robbins had made. 20 Q And how did you respond? 21 A I told that I didn't hear this comment, but I thought 22 it was unprofessional. 23 Q Did Officer Krowz ever tell you -- I'm sorry -- 24 Officer Kroes ever tell you that Mr. Perry should not 25 have been discharged from the emergency room in his</p>	<p style="text-align: center;">Page 103</p> <p>1 and groaning. 2 Q Other than not -- 3 A Or what may have caused his.... 4 Q Other than not asking, did you take any other action 5 to try and determine why Mr. Perry was moaning or 6 groaning? 7 A No. 8 Q Did you observe any other officer either inquire or 9 take some action as to why Mr. Perry was moaning and 10 groaning? 11 A No. 12 Q Officer Kroes told me at his deposition that he didn't 13 hear exactly what your conversation was with 14 Lieutenant Robbins at the time Mr. Perry was being 15 discharged, but he thought you said something to the 16 extent, "Look, you know he's not even walking. We 17 told the hospital staff we don't think this is right." 18 Do you recall saying words to that effect to 19 Lieutenant Robbins? 20 A Yes, I did. 21 Q And do you recall Lieutenant Robbins saying words to 22 this effect, "Well, if you have the paperwork and 23 they're saying he's discharged, there's not much more 24 else we can do. So bring him back the safest way you 25 can, and we'll deal with it from there"?</p>
<p style="text-align: center;">Page 102</p> <p>1 opinion? 2 A No. 3 Q When did you first hear Mr. Perry start moaning and 4 groaning? 5 A After we got off the elevator. 6 Q And did you or any other officer in your presence 7 inquire as to whether or not Mr. Perry was suffering 8 from any physical conditions? 9 A I'm sorry. Can you repeat that? 10 Q Did you or any other officer in response to Mr. 11 Perry's moaning and groaning inquire as to whether or 12 not Mr. Perry was suffering from a medical or physical 13 problem? 14 A Did we ask him why he was moaning and groaning? No. 15 Q What, if anything, did you do to determine why Mr. 16 Perry had started moaning and groaning? 17 A No, I did not inquire specifically why he was moaning 18 and groaning. 19 Q I'm asking what, if anything, did you do? Did you do 20 anything to determine why Mr. Perry started moaning 21 and groaning once he was brought back into PPS? 22 A He was making noises. It was -- I didn't know why. 23 Q And what did you do to determine why he was making 24 those noises, if anything? 25 A No, I did not specifically ask him why he was moaning</p>	<p style="text-align: center;">Page 104</p> <p>1 A Yes. 2 Q Were you advised by anyone that the condition you 3 observed -- strike that. 4 Did anybody at the hospital advise you that the 5 condition you had observed as it relates to Mr. Perry 6 during the several hours he was in the hospital was 7 solely related to medication? 8 A That's what the nurse had -- Yes, that's what she told 9 me, and I can't remember, is it Dr. Coogan or Coonan, 10 I don't know how to pronounce his last name. 11 Q Do you recall specifically talking to Dr. Coogan at 12 discharge? 13 A Yes. 14 Q And how do you know it was Dr. Coogan? 15 A I believe -- He had a lab coat on, or some type -- 16 like a jacket. 17 Q Let me ask you this. Was the same doctor who talked 18 to you at discharge the same doctor who had checked in 19 on Mr. Perry over the course of the evening? 20 A There -- We were there with him after a -- we didn't 21 leave right away after he was discharged. I asked him 22 what he had gave him, why is he acting like this. I 23 basically -- okay, well, what I asked him, what did 24 you -- what did you give him, why is he like this. 25 MR. GENDE: Can you read the question back,</p>

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<p style="text-align: center;">Page 105</p> <p>1 please?</p> <p>2 THE REPORTER: Yes. Stand by.</p> <p>3 (Question played back 1:00 - 1:01)</p> <p>4 THE REPORTER: Stand by. Okay. Please</p> <p>5 continue.</p> <p>6 BY MR. GENDE:</p> <p>7 Q And I'm sorry. Was your answer yes or no?</p> <p>8 A My answer was I only had contact with one doctor.</p> <p>9 Q Did Officer Kroes ever tell you that he thought Mr.</p> <p>10 Perry was faking?</p> <p>11 A No.</p> <p>12 Q Did anybody at PPS, I mean any officer, any</p> <p>13 supervisor, ever say to you or say in your presence</p> <p>14 they believe Mr. Perry was faking his condition?</p> <p>15 A No, I do not remember anybody telling me that he</p> <p>16 thought Mister -- or that he was faking.</p> <p>17 Q And I'm talking about after the emergency room and</p> <p>18 when he was returned to PPS.</p> <p>19 A Correct.</p> <p>20 Q After you were advised that Mr. Perry had passed away,</p> <p>21 was there any discussion amongst any officers that</p> <p>22 you're aware of, including yourself, that Mr. Perry</p> <p>23 was faking his condition while he was at PPS?</p> <p>24 A No.</p> <p>25 Q Was there a debrief that included the officers who</p>	<p style="text-align: center;">Page 107</p> <p>1 A No.</p> <p>2 Q Have any other officers that you're aware of expressed</p> <p>3 grief as it relates to Mr. Perry's death?</p> <p>4 A No.</p> <p>5 Q Have any other officers expressed to you, or in your</p> <p>6 presence, what might have been done differently that</p> <p>7 would have prevented Mr. Perry's death or led to a</p> <p>8 less permanent outcome?</p> <p>9 MS. LAPPEN: Calls for speculation.</p> <p>10 But go ahead and answer.</p> <p>11 A No.</p> <p>12 MR. GENDE: Okay. I don't think I have</p> <p>13 anything further. Thank you, Officer.</p> <p>14 MS. LAPPEN: I just have a little</p> <p>15 clarification.</p> <p>16 THE REPORTER: Ms. Lappen.</p> <p>17 MS. LAPPEN: Thank you.</p> <p>18 E X A M I N A T I O N</p> <p>19 BY MS. LAPPEN:</p> <p>20 Q Officer Jacks, if you could just keep Exhibit 77 in</p> <p>21 front of you. I just want to clarify. You were</p> <p>22 interviewed by I believe it's Detective Fortune on the</p> <p>23 same night of Mr. Perry's death, correct?</p> <p>24 A Correct.</p> <p>25 Q And at the time he interviewed you, am I correct that</p>
<p style="text-align: center;">Page 106</p> <p>1 were on duty on the shift that Mr. Perry died?</p> <p>2 A Was there a debrief about Mr. Perry passing away?</p> <p>3 Q Yes.</p> <p>4 A Not -- not like a group debriefing. I talked to my</p> <p>5 captain the next day about it.</p> <p>6 Q Was anything mentioned at roll call about Mr. Perry's</p> <p>7 passing?</p> <p>8 A No.</p> <p>9 Q And when you talked to your captain about it, was</p> <p>10 there any discussion that Mr. Perry had been faking</p> <p>11 his condition?</p> <p>12 A No.</p> <p>13 Q Was there any grief counseling offered to anyone as it</p> <p>14 relates to Mr. Perry's death?</p> <p>15 A No.</p> <p>16 Q Did you seek any grief counseling independently as it</p> <p>17 relates to Mr. Perry's death?</p> <p>18 A No.</p> <p>19 Q At moments during this deposition, you have appeared</p> <p>20 to express some sorrow or sadness or grief as it</p> <p>21 relates to Mr. Perry's death. Do you feel some grief</p> <p>22 in that regard?</p> <p>23 A Yes.</p> <p>24 Q Has any other prisoner that you've closely monitored</p> <p>25 passed away on your watch?</p>	<p style="text-align: center;">Page 108</p> <p>1 you gave him information to the best of your ability?</p> <p>2 A Yes.</p> <p>3 Q And you tried to relay to him as much detail as</p> <p>4 possible in response to his questions, correct?</p> <p>5 A Yes.</p> <p>6 Q Okay. Do you think that the memory that you had</p> <p>7 regarding any of the events involving your interaction</p> <p>8 with Mr. Perry that night, that you think you -- do</p> <p>9 you think that your recollection at the time that you</p> <p>10 spoke with Detective Fortune was better than your</p> <p>11 recollection is today?</p> <p>12 A Yes.</p> <p>13 Q Okay. I just want to point out to page 2 of this</p> <p>14 exhibit, the fourth paragraph, and it starts with,</p> <p>15 "Officer Jacks relates that while waiting for the</p> <p>16 doctor, Perry stated that he had to use the bathroom.</p> <p>17 She relates that he subsequently did go to the</p> <p>18 bathroom alone, and when he was done, he was recuffed</p> <p>19 and walked back to his hospital bed." Do you recall</p> <p>20 giving that information to Detective Fortune?</p> <p>21 A Yes.</p> <p>22 Q And you had stated earlier in your deposition today</p> <p>23 that when -- after Mr. Perry had indicated to you that</p> <p>24 he needed to use the bathroom, that you called Officer</p> <p>25 Kroes in to assist with that process?</p>

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28 (Pages 109 to 112)

<p style="text-align: center;">Page 109</p> <p>1 A Correct.</p> <p>2 Q Did Officer Kroes go with him to the bathroom?</p> <p>3 A We both -- yes, we both went with him.</p> <p>4 Q Okay. Okay. So while he used the bathroom by</p> <p>5 himself, he was supervised by you and Officer Kroes up</p> <p>6 until the point that he went into the bathroom,</p> <p>7 correct?</p> <p>8 A We walked into the bathroom. Officer Kroes was</p> <p>9 physically in the bathroom with him, and I was</p> <p>10 standing outside the door.</p> <p>11 Q Okay. And just -- was this bathroom, was it attached</p> <p>12 to the hospital room in which Mr. Perry was placed, or</p> <p>13 did you have to go into the hospital hallway and then</p> <p>14 to a different location to the bathroom?</p> <p>15 A We had to go into a hallway.</p> <p>16 Q Can you estimate, you know, how far it was to get to</p> <p>17 that bathroom from the hospital room?</p> <p>18 A Twenty feet. It wasn't...</p> <p>19 Q Okay. So fairly close down the hallway.</p> <p>20 A Yes.</p> <p>21 Q Okay. Then you stated, the last sentence in that</p> <p>22 paragraph reads, "Officer Jacks relates Perry then</p> <p>23 began asking about his charges." Do you recall making</p> <p>24 that statement to Detective Fortune?</p> <p>25 A No.</p>	<p style="text-align: center;">Page 111</p> <p>1 Q Okay. Then it continues, "Officer Jacks relates that</p> <p>2 the nurse was called and subsequently arrived and</p> <p>3 tried to give Perry an I.V. It was unsuccessful." Do</p> <p>4 you recall that happening, meaning the nurse coming in</p> <p>5 the room and trying to get an I.V. going but being</p> <p>6 unsuccessful in that process?</p> <p>7 A Yes.</p> <p>8 Q And did you have an understanding when that was</p> <p>9 happening what the issue was with the I.D. -- I mean,</p> <p>10 excuse me -- the I.V. and not getting it going?</p> <p>11 A From what I saw, she -- the needle, she kept the</p> <p>12 needle -- it was -- she was pulling the needle like in</p> <p>13 and out, and he had track marks what I believe was</p> <p>14 from shooting up drugs. And so it's -- it scars the</p> <p>15 tissue. It makes like holes on your skin and it's</p> <p>16 hard to get anything in.</p> <p>17 Q Okay. So from your observation, it appeared that she</p> <p>18 was simply physically, with the needle, having</p> <p>19 difficulty penetrating the skin to get that I.V. set</p> <p>20 up.</p> <p>21 A Correct.</p> <p>22 Q Okay. Then it continues, "She," meaning you, "She</p> <p>23 relates that the nurse left the room, returned with</p> <p>24 other medical personnel. The insertion of the I.V.</p> <p>25 was successful, and the nurse told them that he will</p>
<p style="text-align: center;">Page 110</p> <p>1 Q Sitting here today, do you recall Mr. Perry having any</p> <p>2 kind of discussion with you or asking about the</p> <p>3 charges, the criminal charges that he was facing that</p> <p>4 night?</p> <p>5 A I don't remember specific charges, but I remember him</p> <p>6 asking what it was he going to go from after the</p> <p>7 hospital.</p> <p>8 Q Okay. Then the next paragraph, so that would be the</p> <p>9 fifth paragraph on the second page of the exhibit, it</p> <p>10 reads, "Officer Jacks relates that Perry then became</p> <p>11 very quiet for a while." Sitting here today, do you</p> <p>12 recall that happening?</p> <p>13 A No.</p> <p>14 Q Okay. Do you have any sense how long of a period of</p> <p>15 time it was wherein Mr. Perry became very quiet?</p> <p>16 A Do I know the specific time? A couple minutes.</p> <p>17 Q Okay. And then, well, the paragraph continues by</p> <p>18 saying that "She," meaning you, "She states that all</p> <p>19 of a sudden he yelled out 'Hey,' then went into what</p> <p>20 Officer Jacks believes was another seizure." So you</p> <p>21 do recall being present, though, when Mr. Perry went</p> <p>22 into a seizure while in the hospital room, correct?</p> <p>23 A Mm-hmm.</p> <p>24 Q Is that a yes?</p> <p>25 A Yes.</p>	<p style="text-align: center;">Page 112</p> <p>1 be ready to go in approximately 30 minutes and will</p> <p>2 not be admitted." Do you recall that series of events</p> <p>3 happening?</p> <p>4 A Correct.</p> <p>5 Q When the nurse came back in the hospital room, do you</p> <p>6 recall how many other people came in with her?</p> <p>7 A To -- as far as with the problems with the I.V.?</p> <p>8 Q Right.</p> <p>9 A At least one other person.</p> <p>10 Q Okay. And did it appear to you that the other person,</p> <p>11 or at least one other person, kind of took over,</p> <p>12 attempting to set the I.V. and that the other person</p> <p>13 was successful?</p> <p>14 A Yes.</p> <p>15 Q Okay. Then that paragraph completes by stating, "The</p> <p>16 nurse related to" -- you -- "Officer Jacks that the</p> <p>17 medication that was given to him will make him a</p> <p>18 little drowsy." Do you recall the nurse telling you</p> <p>19 that that day?</p> <p>20 A Yes.</p> <p>21 Q And did she give you any indication as to how long she</p> <p>22 suspected or thought that it might take for the drug</p> <p>23 to have that effect, meaning before you would see the</p> <p>24 effect of Mr. Perry becoming drowsy?</p> <p>25 A No.</p>

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29 (Pages 113 to 116)

<p style="text-align: center;">Page 113</p> <p>1 Q Okay. Continuing with the next paragraph, it reads, 2 "Officer Jacks relates that the nurse then tried to 3 wake Perry up by arousing him, rubbing his chest, 4 telling him to get up and go to the bathroom." And I 5 think you stated earlier that sitting here today you 6 don't recall that chest rub? 7 A Correct. 8 Q Do you recall, though, after the I.V. was set up, but 9 prior to medical personnel coming back in the room, 10 that Mr. Perry did in fact get drowsy? Or appear to 11 be drowsy? 12 A Yes. 13 Q Okay. That paragraph continues by reading, "Officer 14 Jacks relates that she and her partner, Officer Kroes, 15 tried to escort him to the bathroom, but by that time 16 he had urinated and defecated on himself." Do you 17 remember sitting here today that occurring? 18 A No. 19 Q Okay. Do you have any really -- any reason to believe 20 that when this information was provided to Detective 21 Fortune on the night of the incident that it was 22 incorrect? 23 A No. 24 Q Okay. Then that paragraph continues by reading, "She 25 relates that they then escorted him back to his</p>	<p style="text-align: center;">Page 115</p> <p>1 A Right, I did relate to the -- that he was not dropped. 2 BY MS. LAPPEN: 3 Q Okay. And as Mr. Perry was being carried back to that 4 cell, did you physically have your hands on him? 5 A Yes, I did. 6 Q Okay. At any point in time, did you lose your grip 7 with Mr. Perry? 8 A No. 9 Q At any time did you observe any other officer lose 10 their grip with Mr. Perry? 11 A No. 12 Q And did you observe anybody, you know, in any way 13 falter or stumble as they were carrying Mr. Perry down 14 the hallway and to the jail cell? 15 A It was -- I mean, it was -- he was heavy and, I mean, 16 we were all four, we were different size officers, so 17 it was kind of -- it's hard carrying somebody down a 18 hallway. 19 Q But do you recall any movement or motion on behalf of 20 anybody which indicated to you that Mr. Perry had been 21 dropped? 22 A No. 23 MR. GENDE: Objection. Asked and answered. 24 BY MS. LAPPEN: 25 Q I'm sorry. Your answer was?</p>
<p style="text-align: center;">Page 114</p> <p>1 hospital bed," and continuing with, "Officer Jacks 2 relates that moments later, Perry began acting unusual 3 by pulling on the covers." Do you recall this unusual 4 behavior regarding pulling on the covers? 5 A No. 6 Q Just moving forward in the report, the last paragraph 7 on the second page, about middle way, it reads, "She 8 relates that Perry then began to spit at them, and 9 they subsequently placed a spit mask on him. Officer 10 Jacks relates that as they carried him to a single 11 cell, still in handcuffs and shackles, Perry was never 12 dropped by anyone." Sitting here today, do you -- do 13 you have a recollection as to the route of travel from 14 the area where Mr. Perry was first brought into the 15 PPS facility to his ultimate location in the cell that 16 he was put into? 17 A No, I do not remember the exact path that we took. 18 Q Okay. But with regard to the -- you were involved 19 with the process of carrying him to the cell, correct? 20 A Correct. 21 Q And so sitting here today, do you recall looking back 22 on those events regarding that transport process that 23 you did not -- strike that -- that Mr. Perry was not 24 dropped in any way? 25 MR. GENDE: Objection. Form.</p>	<p style="text-align: center;">Page 116</p> <p>1 A No. 2 Q Okay. Thanks. 3 MR. GENDE: Same objection. 4 MS. LAPPEN: Okay. Nothing further. Do you 5 have anything? 6 MR. JONES: I don't have any questions. 7 MR. GENDE: I do. 8 E X A M I N A T I O N 9 BY MR. GENDE: 10 Q Officer. 11 A Mm-hmm. 12 Q In the event that Mr. Perry did urinate and defecate 13 himself -- 14 A Mm-hmm. 15 Q -- while at the hospital, any reason why you wouldn't 16 offer him some assistance? 17 A What could I have poss-- there was -- what do you 18 mean? 19 Q Did you offer for him to clean himself up? 20 A No, I did not. 21 Q Did you offer for him to wear a smock from the 22 hospital? 23 A I don't know where they keep their supplies. I don't 24 -- 25 Q The question is did you offer to --</p>

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30 (Pages 117 to 120)

<p style="text-align: center;">Page 117</p> <p>1 A A smock? No, I did not.</p> <p>2 Q So in the event that he did urinate and defecate on</p> <p>3 himself at the hospital, is there any reason why you</p> <p>4 failed to offer him any assistance from the moment you</p> <p>5 took him from the hospital back to PPS and sat him</p> <p>6 down on the floor at PPS?</p> <p>7 MS. LAPPEN: Objection. Argumentative and</p> <p>8 it misstates the witness's prior testimony.</p> <p>9 But go ahead and answer.</p> <p>10 A I don't know where the hospital keeps its supplies. I</p> <p>11 don't -- what could we have -- We have to take him</p> <p>12 back out from the hospital to PPS. What could we have</p> <p>13 put on him? He need -- we couldn't walk him out</p> <p>14 naked.</p> <p>15 BY MR. GENDE:</p> <p>16 Q So in answer to my question, you did --</p> <p>17 A I had no problem if there would have been something</p> <p>18 right there that I could have put on to help him clean</p> <p>19 him up. I put on his shoes and his shirt. If they</p> <p>20 would have had spare clothes laying around, I would</p> <p>21 have dressed him. It's not a problem.</p> <p>22 Q You didn't clean him up and you didn't offer to clean</p> <p>23 him up, correct?</p> <p>24 A No, I did not offer to clean him up.</p> <p>25 Q And you didn't ask Mr. Perry if he'd like to clean</p>	<p style="text-align: center;">Page 119</p> <p>1 Q So your report to the officers -- I'm sorry -- to the</p> <p>2 detective that he urinated and defecated on himself</p> <p>3 while at the hospital --</p> <p>4 A I don't remember at what point he did that.</p> <p>5 Q Well, does that sound accurate to you, as we sit here</p> <p>6 today, that he urinated and defecated on himself at</p> <p>7 the hospital and you didn't offer to clean him up,</p> <p>8 didn't offer for Mr. Perry to clean him up, and didn't</p> <p>9 ask somebody at the hospital to clean him up before he</p> <p>10 was transferred?</p> <p>11 A What could they have done for him -- with his clothes?</p> <p>12 Q That's not my question.</p> <p>13 A They don't have any spare -- I mean, I'm thinking</p> <p>14 about him on the -- not to mention the fact a female</p> <p>15 officer, what -- I don't -- I'm pretty sure my</p> <p>16 supervisor would prefer I not strip him naked and --</p> <p>17 no. I could have, but --</p> <p>18 Q You're not --</p> <p>19 A And at the most they -- we don't have spare clothes.</p> <p>20 The only thing that they, had he asked, is a paper</p> <p>21 jump suit.</p> <p>22 Q That's not my question.</p> <p>23 A Okay.</p> <p>24 Q I'm asking you, as we sit here today, in the event</p> <p>25 that Mr. Perry had urinated or defecated on himself at</p>
<p style="text-align: center;">Page 118</p> <p>1 himself up, in the event that he did urinate and</p> <p>2 defecate on himself at the hospital.</p> <p>3 A If he would have asked me that he needed help, I would</p> <p>4 probably have asked the hospital staff to offer him</p> <p>5 something to clean himself up.</p> <p>6 Q So in the event that he did urinate and defecate on</p> <p>7 himself at the hospital, you would have asked staff to</p> <p>8 do something so he wouldn't have to be transported in</p> <p>9 his own urine and excrement, right?</p> <p>10 A I could have. I don't know what they would have did</p> <p>11 for him. They....</p> <p>12 Q Did you ask anybody at the hospital to try and clean</p> <p>13 Mr. Perry up in the event that he had urinated and</p> <p>14 defecated on himself while at the emergency room?</p> <p>15 A No, I did not.</p> <p>16 Q Do you believe as we sit here today that he did</p> <p>17 urinate and defecate on himself while at the emergency</p> <p>18 room?</p> <p>19 A I don't remember him defecating or -- I don't know</p> <p>20 what point that happened, and so when we were at PPS,</p> <p>21 when we brought him back, then I smelled it.</p> <p>22 Q That was the first time you smelled it.</p> <p>23 A Mm-hmm.</p> <p>24 Q At PPS, right?</p> <p>25 A Yes.</p>	<p style="text-align: center;">Page 120</p> <p>1 the hospital, does it seem likely that you wouldn't</p> <p>2 have done anything to address that, you would not have</p> <p>3 offered Mr. Perry to do anything to address that, and</p> <p>4 you would not have asked the hospital staff to do</p> <p>5 anything to address urine and feces on Mr. Perry</p> <p>6 before you took him back to PPS?</p> <p>7 A You're -- sorry. I don't understand what you're</p> <p>8 saying. I don't even recall when he had defecated and</p> <p>9 urinated on himself.</p> <p>10 Q Well, you're telling your attorney that it happened</p> <p>11 while he was at --</p> <p>12 A I don't know when it -- I know I -- I told her when I</p> <p>13 noticed it.</p> <p>14 Q All right. And I'm --</p> <p>15 A I don't know at what -- I can't remember what</p> <p>16 specifically, when he did that.</p> <p>17 Q All right. And I'm asking you that if he did do it --</p> <p>18 A Mm-hmm.</p> <p>19 Q -- while at the hospital, you would have taken some</p> <p>20 action to try and correct it in the event you could,</p> <p>21 right?</p> <p>22 A I could have. Yeah, I could have.</p> <p>23 Q You don't want to transport somebody that's full of</p> <p>24 urine and feces, right?</p> <p>25 A No, I don't, nor do I want to transport somebody in</p>

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31 (Pages 121 to 122)

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1 only a hospital gown.
2 Q And do you want to put somebody in the back of your
3 squad who has urinated and defecated on himself?
4 A No, I don't. But it won't be the first time and it
5 won't be the last.
6 Q When you put Mr. Perry in the back of your squad, you
7 told me you and Officer Krowz -- Kroes had to pick him
8 up and put him in the squad, right?
9 A Mm-hmm.
10 Q You recall that in detail, correct?
11 A Correct.
12 Q Did he have urine or feces on him at that time?
13 A I don't remember any urine or feces on him.
14 Q Did you smell it when you put him in the back of the
15 squad?
16 A No.
17 Q Did you smell it when you were driving him back to the
18 facility?
19 A No.
20 Q Did you smell him -- smell that when you removed Mr.
21 Perry from the back of the squad?
22 A No.
23 Q Did you smell it when you picked up Mr. Perry from the
24 squad and walked over to the elevator?
25 A No.

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1 Q Did you smell it on the way up in the confined
2 elevator with four other officers?
3 A No.
4 MR. GENDE: I don't have anything further.
5 Thank you.
6 MS. LAPPEN: No, nothing further. Thank
7 you.
8 THE REPORTER: Okay. There being no further
9 questions, the deposition is concluded at 1:21
10 p.m. Off the record.

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